

The complaint

Mr F complains that Mulsanne Insurance Company Limited mishandled his claim on a motor insurance policy.

Where I refer to Mulsanne, I refer to the above-named insurance company and I include intermediaries and others insofar as I hold Mulsanne responsible for their acts or omissions.

What happened

The subject matter of the claim and the complaint is a luxury sports car, with a large engine and all-wheel drive, first registered in 2015.

Mr F bought the car in the summer of 2020.

In late July 2021, Mr F used a price comparison website. For the year from early August 2021, he took out a comprehensive policy branded with the name of a supermarket bank acting as an insurance intermediary.

The certificate of insurance was signed by another company “*for and on behalf of Mulsanne*”. Any claim for damage (except to a windscreen) was subject to excesses totalling £1,300.00.

The policy documents recorded the value of the car as £35,150.00. The premium for the year was about £1,100.00.

By late September 2022, the car had a recorded mileage of about 22,000. Unfortunately, the car suffered flood damage and Mulsanne said it was a total loss.

Mulsanne told Mr F that when he took out the policy, he gave an incorrect value for the car. Mulsanne said that he had made a qualifying misrepresentation under Consumer Insurance (Disclosure and Representations) Act 2012 (“CIDRA”). So Mulsanne said it would make a “proportional” settlement.

Mulsanne’s engineer’s report said the retail value had been £47,420.00. Mulsanne paid Mr F on the following basis:

90% of £47,420.00	= £42,678.00
less £1,300.00 excess	= £41,378.00

Mr F complained to Mulsanne that it hadn’t paid him enough.

By a final response dated early December 2021, Mulsanne turned down the complaint. Mr F brought his complaint to us in late March 2022.

Our investigator recommended that the complaint should be upheld. She didn’t think it had been fair and reasonable for Mulsanne to decide that Mr F had made a qualifying

misrepresentation. She thought that CAP valued the car at £50,750 and Glass's valued it at £47,420. She recommended that Mulsanne should:

1. use the average of £49,085.00 to calculate Mr F's settlement, less the policy excess and less the amount that he has already received; and
2. add 8% simple interest from the date of the initial settlement to the date that the additional amount is paid to Mr F.

Mulsanne disagreed with the investigator's opinion. It asked for an ombudsman to review the complaint. It says, in summary, that:

- Its underwriting criteria show that it would decline to cover a car over £40,000 unless a tracker was fitted.
- When you put in a car registration on the comparison website, it doesn't state anywhere about the car value. But the complainant did get sent documentation which he has a duty to check over to see if everything was correct. He knew what the value was and didn't take reasonable care to advise it was wrong at any time.

Mr F didn't disagree with the investigator's opinion. He says, in summary, that:

- The used car market value increased significantly during the months before the incident happened.
- The vehicle had a comprehensive service history with no expense spared on care. All keys were present.
- The car itself was in impeccable condition. It had a brand-new windscreen and tyres and had been fully serviced at a cost of more than £2,250.00 just weeks before the incident occurred.
- It would have commanded top price at sale.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Mr F has shown us that he bought the car in the summer of 2020 and paid £42,000.00 for it.

In the summer of 2021, the policy schedule and the statement of fact included a figure of £35,150.00. That was an under-estimate (judging by the valuation in September 2021). And – from what he's said – Mr F believed his car's value in the summer of 2021 was about £42,000.00.

The statement of fact started as follows:

*"Car Insurance - Statement of Fact
Important Information*

Please read this document carefully as it is a record of the information provided by you that your policy is based on. If you are satisfied that, to the best of your knowledge & belief, the information contained below is correct, you do not need to do anything however if any of the facts are incomplete or incorrect, you should contact us on 0345 Failure to do so could result in:

- *any claim you make being rejected or not fully paid*
- *your insurance being cancelled or treated as though it never existed*

- *different terms being applied to your policy or your premium increasing.”*

So Mr F should've contacted Mulsanne to correct the figure of £35,150.00.

But £35,150.00 wasn't a round number, Mr F denies that he suggested it and Mulsanne hasn't shown how that figure came to be in the policy documents. What's more, I'm not satisfied that Mulsanne had asked Mr F a clear question about the value of the car.

So I don't consider that he failed to take reasonable care to avoid an incorrect answer. I'm not satisfied that Mr F made a misrepresentation.

Even if he had made a misrepresentation, Mulsanne would have to show that it made a difference. Mulsanne has said that if Mr F hadn't given a figure under £40,000.00, it wouldn't have offered insurance. But its underwriting criteria don't say that. And Mulsanne didn't decline the claim.

Rather, Mulsanne said that the misrepresentation made the difference that Mr F only paid 90% of the premium that he should've paid. But there's not enough evidence of that either.

So - even if Mr F had made a misrepresentation – it wasn't a qualifying misrepresentation under CIDRA.

I don't consider that it was fair for Mulsanne to pay the claim proportionally. I consider that it should've paid the pre-loss market value (less the policy excess).

In assessing market value, we expect insurers to look at the retail figures in the trade guides. I've noted the make, model, age, specification, mileage and condition of Mr F's car. For a car like his at the time of its loss, the investigator found retail figures in the trade guides as follows:

CAPs	£50,750.00
Glass's	£47,420.00
Cazoo	not available

In other circumstances, I would've said that both £47,420.00 and £50,750.00 would've been reasonable figures. And I'm not persuaded that Mr F's expenditure in the summer of 2021 had added to the value of the car.

But Mr F's car was rare and in excellent condition. So he was likely to find it difficult and expensive to replace it. Therefore I find it fair and reasonable to say that the market value of the car immediately before the loss was £49,085.00.

After it had deducted the policy excess of £1,300.00, Mulsanne paid £41,378.00.

Putting things right

So I find it fair and reasonable to direct Mulsanne to pay Mr F a further £6,407.00.

I've thought about whether Mulsanne's stance – which I've found unfair – caused Mr F extra distress and inconvenience for which I should direct compensation. But Mulsanne stopped short of suggesting that Mr F had deliberately misrepresented the value of his car. And I conclude that much of his distress and inconvenience was caused by Mulsanne's under-payment, for which interest is sufficient compensation.

As he has been out of pocket since the accident and claim, I find it fair and reasonable to direct Mulsanne to pay interest at our usual rate.

My final decision

For the reasons I've explained, my final decision is that I uphold this complaint. I direct Mulsanne Insurance Company Limited to pay Mr F:

1. in addition to its payment of £41,378.00, a further £6,407.00 for his damaged car; and
2. simple interest on that amount of £6,407.00 at a yearly rate of 8% from the date of his claim to the date of its further payment. If Mulsanne considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mr F how much it's taken off. It should also give him a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 21 December 2022.

Christopher Gilbert

Ombudsman