

The complaint

Miss Z complains that esure Insurance Limited unfairly settled a claim on her motor insurance policy.

What happened

Miss Z was in a driving incident when her car was in a collision with another. She claimed on her esure policy holding the other driver (the third party) at fault. esure put those allegations to the third party insurer. However, the third party had claimed on his own policy holding Miss Z at fault for the incident.

The third party insurer then offered to settle the claim on a 50/50 split liability basis. esure accepted that offer.

Ms Z was unhappy about that and complained. Esure didn't uphold it, so Miss Z brought her complaint to the Financial Ombudsman Service. One of our Investigators looked into it. She didn't think esure needed to take any further action. Miss Z didn't agree with our Investigator's complaint assessment; so the matter's been passed to me to decide.

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.

Miss Z is clearly very unhappy that, in agreeing to settle matters on a 50/50 split liability basis, esure has essentially held her equally at fault for the accident. Her evidence is that she was driving in her own lane when the third party crashed into the back of her. The third party's version of events is that he was also driving in his own lane when Miss Z swerved from the inside lane into the lane he was in causing the accident.

I'll repeat, as our Investigator has previously explained, that it isn't the role of the Financial Ombudsman Service to decide liability for a claim. Ultimately that's a matter for the courts.

My role here is to consider if esure has acted in a fair and reasonable way. Like most motor insurers, esure has a clause in Miss Z's policy that allows it to settle a claim as it sees fit. This gives it the right to decide who it believes is liable for a claim, whether that liability should be full or shared or whether or not the matter should be decided in court. So, whilst we don't decide liability, we look to ensure that insurers act fairly in assessing the claim and in deciding whether to settle matters – based on a clear understanding of the evidence and circumstances surrounding the incident. With this in mind, I have carefully considered how esure handled Miss Z's claim.

As I've said above Miss Z is adamant that she was driving in her own lane when the third party crashed into the back of her. So she's certain that the accident wasn't her fault. But, it appears that the third party believed the same was true of his own driving, as he alleged that Miss Z was 100% to blame for the accident.

Miss Z said she had a witness, her partner, who was a passenger in the car at the time of the accident who can support her version of events. But, my understanding is that neither insurers nor the courts would consider a passenger, especially one with a close personal

relationship to the driver, to be an independent witness. So Miss Z's partner's evidence is unlikely to carry any significant weight when deciding on liability.

In a situation like this where both drivers blame each other and there are no independent witnesses or video footage of the actual accident, it's common for matters to be settled on a 50/50 basis. And while esure did consider the location of the damage to the cars, it noted that didn't support Miss Z's version of events. That's because the damage to Miss Z's car was on the right rear bumper and the damage to the third party's car was to the front left headlight. esure said this wasn't consistent with Miss Z's version of events as she'd said that the third party crashed straight into the back of her car.

So, esure concluded that there was no proof the third party was entirely to blame for the incident. Essentially, this came down to one driver's word against the other. And it's clear that esure, which has experience of dealing with such matters, believed that if the claim went to court it was highly likely the court would decide liability should be split. So, while it did initially press the third party insurer to settle the claim holding the third party 100% at fault, ultimately, given the scarcity of compelling evidence that either driver was fully to blame, I think its decision to settle the claim on a 50/50 basis was reasonable.

My final decision

For the reasons set out above I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss Z to accept or reject my decision before 26 November 2025.

Joe Scott
Ombudsman