

complaint

Mr T brings this complaint on behalf of his late wife's estate. He complains that U K Insurance Limited ('UKI') turned down his claim for death benefit under the 'personal accident' section of her travel insurance policy.

background

This is a very sad case. Mr T's wife died in very tragic circumstances while she was abroad with a friend. Very briefly Mrs T was found in the sea, close to the beach. She'd passed away a few hours earlier, after becoming separated from her friend.

UKI was Mrs T's travel insurer. The policy was linked to her joint bank account with Mr T. So UKI arranged for Mrs T's body to be brought back to the UK. Mr T later made a claim for death benefit under the personal accident section of the policy.

The personal accident section gave a death benefit payment, where the accident caused death. But the policy excluded claims for death resulting from the influence of drugs (other than prescription drugs).

Following an inquest the coroner recorded an open verdict, as the circumstances of Mrs T's death were unknown. The inquest record states the medical cause of death was '*drowning and the effects of (a class A drug)*'. I'll call it 'drug G' in this decision.

UKI turned down the claim because it said Mrs T's death had resulted from the influence of a non-prescription drug, and its policy excluded such claims.

Our adjudicator concluded that UKI had been entitled to turn down the claim, based on the policy exclusion. Mr T didn't agree. In summary, he said:

- At the inquest his wife's friend (who I'll call Miss B) had sworn under oath that she had taken drug G, but that his wife had refused. Miss B hadn't seen his wife take any drugs. Miss B's statement to the police abroad suggesting both she and his wife had taken drugs wasn't accurate. The statement had been taken without an independent translator and Miss B had signed it without seeing a translation.
- His wife had never voluntarily taken illegal drugs. There is no evidence she knowingly or willingly took drugs on the holiday. He strongly believed her drink must have been 'spiked' with the drugs. Miss B had said when she last saw his wife she'd been drinking but wasn't drunk. His wife didn't have any money with her, as Miss B had her bag. So she couldn't have bought any more drinks and certainly wouldn't have taken drugs from a stranger when she'd refused to take them from Miss B.
- He referred to some men his wife and Miss B had spoken to at their hotel, and who were mentioned in the inquest report. He thinks these men hold the key to his wife's death, as they were going to the same area the evening she went missing. Unfortunately the CCTV footage had been wiped before his wife was flown home. But he thinks someone is guilty of the manslaughter of his wife, and has got away with this because her death wasn't properly investigated by the authorities abroad.

Mr T asked that I listen to a recording of the inquest hearing. I've now done that.

my findings

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

I've been very sorry to hear about Mrs T's death. It has been a truly terrible time for Mr T and both of their families.

I'm sorry to add to Mr T's distress, but I think UKI was entitled to turn down his claim based on the policy terms. I'll explain why.

The UKI policy excludes any claims arising from *'death, injury, illness, or disablement resulting from the influence of intoxicating liquor or drugs (other than drugs taken under medical supervision and not for the treatment of drug addiction) or solvent abuse.'*

The coroner accepted the pathologist's opinion that the medical cause of Mrs T's death was drowning and the effects of drug G.

The coroner wasn't able to decide what happened to Mrs T after she became separated from Miss B in the early hours of the morning. Mr T says his wife didn't like the beach and was scared of open water. So she wouldn't have gone there alone voluntarily.

The medical evidence was that Mrs T had a high enough level of drug G in her blood to cause death by overdose. She also had another class A drug in her blood, as well as alcohol. The medical evidence said this would cause Mrs T to be disorientated. I think it's unlikely she'd have gone into the sea clothed but for the effect of the drugs in her system.

I see Mr T's concern about the statement Miss B gave to the police abroad, which she says isn't accurate and she wasn't able to read or understand when she signed it. In her statement to the UK police, Miss B admitted to buying drug G during the evening, and taking it. She said she'd offered drug G to Mrs T, but she'd refused. Miss B swore under oath that Mrs T hadn't taken any drugs. Mr T says this fits with his experience of his wife being totally against drugs. His wife didn't have any money with her - Miss B had her bag. So he thinks the only possible explanation is that her drink must have been spiked, possibly by some men the two women had talked to earlier in the evening.

At the inquest the coroner heard evidence from both Mr T and Miss B, before recording an open verdict. I don't have to follow a coroner's findings, in deciding what's fair and reasonable. But, in this case, I do consider the coroner's verdict carries weight, especially as it followed an inquest hearing. The coroner made her decision after hearing evidence from witnesses and reviewing all the medical evidence.

The coroner couldn't explain how Mrs T came to have drug G in her system, but found it to be a medical cause of her death. This was after hearing the evidence, including what had been said about the men Mrs T and Miss B had spoken to. I don't think I can properly speculate on the circumstances of Mrs T's death without any independent evidence to back up Mr T's claim that her drink was spiked. There isn't any independent evidence that I've seen. So I think UKI was fairly entitled to rely on the exclusion in its policy to turn down Mr T's claim.

my final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T on behalf of the estate of the late Mrs T, to accept or reject my decision before 11 April 2016.

Amanda Maycock
ombudsman