

complaint

Mr V has complained that esure Insurance Limited decided he caused an accident when it settled a claim from another driver under his motor policy. He also complains that its market value for his car is too low.

background

Mr V was involved in an accident and the other driver made a claim. Mr V thought he didn't cause the accident, but esure said that he was responsible. So it settled the other driver's claim and held Mr V at fault for the accident.

esure instructed an engineer to look at Mr V's car and the engineer said it wasn't worth repairing it. The engineer thought Mr V's car was in poor condition because of the damage to it before the accident. He said it would cost £1,515.84 to repair the pre accident damage alone. So esure offered Mr V a market value of £2,430 minus £930 for pre accident damage. After deducting Mr V's excess of £350, esure offered him a settlement figure of £1,150. Mr V thought this wasn't enough and complained to esure. So esure offered Mr V a further £100 – so the final settlement figure was £1,250.

Mr V didn't accept esure's offer and he brought his complaint to us. He sent us a valuation from a second garage. The second engineer thought Mr V's car was worth £2,000. He told the adjudicator he based his valuation using Glass's trade guide. But he thought the deduction of £930 for pre accident damage was too high. So the adjudicator recommended esure increase the market value to £2,000. She thought esure had reached its decision about liability reasonably, so she didn't recommend that this part of Mr V's complaint be upheld.

esure didn't agree. But it said if Mr V could provide an estimate for the pre accident damage repairs to his car which was a lot less than £1,515.84; it would consider increasing its offered settlement figure.

Mr V sent an estimate from a third garage which esure considered. But it didn't increase its offer. esure asked an ombudsman to make a decision.

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 set out the complaints under headings below.

liability

We don't decide who is at fault for an accident, as this is the role of the courts. We look at whether the insurer acted fairly and reasonably in making its decision, and in line with its policy.

Mr V's policy says esure can take over the defence or settlement of any claim. So it can decide whether it's reasonable to contest a third party's claim or better to settle it. It's a common term in all motor policies. So it might mean that esure makes a decision Mr V doesn't agree with, but the policy allows esure to do this.

Mr V was pulling out of a side road when he collided with another car. The other driver had right of way – so esure decided that Mr V was responsible for the accident. Mr V's witnesses then provided statements. But these didn't support Mr V's belief that he wasn't at fault. So esure didn't change its decision. I think esure reached its decision about liability reasonably.

Market value

Mr V's policy entitles esure to settle the claim by paying him the market value of his car at the time of loss. It isn't our role to provide a precise valuation of the car. But we can determine whether esure's offer is fair and reasonable. We normally give weight to the various trade guides used for valuing cars. But we also take into account information both parties send us – such as engineer's reports, statements from dealers and, in some cases, adverts for similar cars.

The three main trade guides are Glass's, CAP and Parkers. esure says Glass's trade guide gave a valuation of £2,430. CAP's valuation was £2,495 - with Parkers at £2,280.

We've looked at the trade guide valuations and it also gave £2,430 under Glass's - but CAP was higher at £2,860. We weren't able to obtain a guide from Parkers. These valuations assumed Mr V's car was in good condition.

We think it's generally reasonable to deduct no more than half of the estimate to repair pre accident damage from the market value, but particularly so in older cars. This is because older cars are more likely to have some light damage and wear and tear than a newer car. Mr V's car was 11 years old when the accident happened. So I think esure's offer is too low because it used the lowest of the trade guides and then deducted over half of the estimate which was £930.

The second engineer said he thought Mr V's car was worth £2,000. He also based his valuation on the trade guides. He thought the pre existing damage was minor and relative to the age of the car. So he thought esure's deduction of £930 from the market value of £2,430 was too high.

As I've said, it isn't an exact science in deciding a fair and reasonable market valuation. But looking at the trade guides, the average of the two from Glass's and CAP is £ 2,645 which I think is a fairer starting point. And I think it's reasonable to deduct half of the estimate for the pre accident damage which is £758. So this increases the market value from £1,600 to £1,887.

I've taken into account the second engineer's view, and I think his recommended market value of £2,000 is reasonable. This is because it's just over £100 more than what we would consider a fair valuation. So I think esure should increase its market valuation from to £2,000. I think Mr V was put to some trouble in getting a second engineer's opinion and for the way esure dealt with his complaint. So I think it should pay him compensation of £100.

Mr V has sent an estimate from a third garage for pre accident damage repairs. But I don't think its right to compare it with the original estimate for £1,515.84 as it isn't for the same work. It's an estimate for £170 for scratch repair work, and the pre accident damage was more than some light scratches. There were dents as well as scratches and scuffs to several areas of Mr V's car.

I understand that Mr V is still driving his car and he hasn't told esure what he wants to do to settle his part of the claim. If Mr V accepts the market value for his car it will become esure's property. If he keeps his car, esure is entitled to take a reasonable salvage deduction from the market value it pays him.

my final decision

For the reasons I've given above, my final decision is that I uphold this complaint in part and I require esure Insurance Limited to do the following:

- Increase the market valuation for Mr V's car to £2,000. Mr V's excess will be deducted from this sum if he hasn't already paid it.
- Add interest to this amount at a rate of 8% simple interest per year from the date of the first engineer's report to the date it pays Mr V.
- Pay Mr V £100 compensation for the trouble and upset caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr V to accept or reject my decision before 11 April 2016.

Geraldine Newbold
ombudsman