

complaint

Mrs H complains about a second hand car supplied to her under a hire purchase agreement with Toyota Financial Services (UK) PLC, ("TFS"),

background

Mrs H complains about the quality of a second hand car supplied to her at the end of March 2014 under a hire purchase agreement with TFS. The car was over four years old when she acquired it and had been driven just over 56,000 miles. Mrs H said that it had started burning an excessive quantity of oil following a service in late July 2015, after she had driven around 30,000 miles in the car. She also said that the oil warning light was not working. Mrs H said that there was a fault with the pistons, and that it would cost £1,900 to repair the car.

Because of Mrs H's brand loyalty, TFS has offered as a goodwill gesture a 50% reduction in the cost of the parts and a contribution to the repair of £100. The dealership has also offered a 15% labour discount. But this still means that the fault will cost over £1,500 to repair. So, Mrs H wants to reject the car, or for TFS to pay for all the car's repairs. Mrs H said that as the car is not fit for purpose, she has returned it to the dealership and has stopped making her repayments.

The adjudicator concluded that TFS's offer was fair. He noted that the current mileage was over 90,000 miles, and believed that the faults were due to wear and tear, rather than an inherent defect which was present at the point of sale. He said that TFS could only be held liable if it was established that there was an inherent fault at the point of sale. There was nothing to show that the fault was present when the car was sold. So he didn't think he could ask TFS to accept the rejection of the car or to repair the car free of charge.

Mrs H disagreed and responded to say, in summary, that the oil light had not come on during her period of ownership. As a result, the car was unsafe to drive. This was a manufacturing defect for which TFS should be liable.

my findings

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

Where things are not clear, or in dispute, I make my findings on what I think is most likely to be the case. I take into account the evidence which is available to me and the wider surrounding circumstances.

Mrs H took out a hire purchase agreement with TFS to fund the cost of a car. The relevant legislation says that the car should be of satisfactory quality when it was supplied to Mrs H.

When considering whether goods are of a satisfactory quality I take into account all of the circumstances including, for example, the age of the car and the mileage it has covered.

In order that I can decide if the car was of unsatisfactory quality at the time it was supplied, I would normally expect any faults to occur shortly after supply. In this case, the fault didn't occur until after 16 months.

The problems with the oil occurred when the car was over five years old, and after the car had travelled around 80,000 miles. I think it's reasonable to expect that problems might occur when a car reaches that age and mileage. Mrs H didn't raise any problem until she

had driven over 30,000 miles. Her 12 month warranty had also expired by then. I also cannot exclude the fact that the fault might have been caused as a result of inevitable wear and tear. I also note that Mrs H hadn't had the car serviced after driving 10,000 miles. She said that she didn't know she had to do this. But the failure to keep the car properly maintained may have also caused problems. Mrs H also said that with her previous car of the same brand, she had changed her oil every 10,000 miles. But as she was making three 160 mile return trips every week, I think it would have been prudent for her to check the oil more regularly. Mrs H also said that the oil warning light hadn't come on when the oil was low. But I've not seen any compelling evidence to show whether this was a fault at the point of sale.

Given the age of the car, the miles driven and the time that had passed until the problems were noted in July/August 2015, I find it more likely than not that the problems Mrs H's car suffered were not due to faults present at the point of supply. I also don't think that Mrs H would have been able to cover over 30,000 miles if there was a defect at the point of sale. To hold TFS liable, I would need compelling evidence that the car was defective when the car was supplied. In the absence of this, it would be unfair for me to do so. But I do note that TFS had offered to assist Mrs H, before she brought her complaint to this service, by paying for half of the cost of the new parts and contributing £100. I think this is a reasonable offer.

I recognise Mrs H's strength of feeling and obvious frustration. But, having considered very carefully the circumstances of this complaint, overall, and on balance, I don't consider that I have grounds to find that Mrs H should be allowed to reject the car or have the repairs paid for by TFS. I appreciate that this isn't the outcome that Mrs H wants. But she doesn't have to accept my decision and may pursue her case by alternative means should she wish to do so.

I note that Mrs H has had to buy a new car as she needs one for her work. This has meant that she's been unable to make her repayments with TFS. If Mrs H is in financial difficulties and is unable to meet the repayments due on TFS's loan, I would urge her to contact TFS to discuss this. I would remind TFS of its duty to treat cases of financial difficulty positively and sympathetically.

my final decision

My decision is that I don't uphold this complaint. I simply leave it for Mrs H to decide whether she wishes to accept the offer TFS made to her before she brought her complaint to this service.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 19 February 2016.

Roslyn Rawson
ombudsman