

complaint

Miss R complains about how AXA Insurance UK Plc dealt with her claim on her motor insurance policy when it found that the person driving her car at the time of the accident wasn't insured to drive it.

background

Miss R's car was damaged in an accident whilst it was being driven by her partner. Miss R reported this to AXA and told it that he was uninsured. AXA said it would recover the car to a safe compound and process the claim. It later told Miss R that it wouldn't cover her claim and she should pick up her car from the recovery agent. But the agent had already sold the car for salvage and Miss R lost her cherished number plates.

Our adjudicator recommended that the complaint should be upheld in part. He explained that Miss R's partner wasn't covered to drive her car under her policy and that he should contact his own insurer to see if he would be covered.

He thought AXA had caused Miss R a loss as it should have told her when she reported the accident that it wouldn't provide cover and she should recover the car herself. She could then have removed the number plates and sold the salvage.

So the adjudicator recommended that AXA should reimburse Miss R for the salvage amount, with interest, and act to either recover her plates or, if this wasn't possible, reimburse her for their cost. He also thought AXA should pay Miss R £200 compensation for her trouble and upset.

Miss R said she was happy with the adjudicator's view. But AXA replied that it wouldn't agree to pay for a car when it hadn't made the decision to sell or scrap it. It said the recovery agent was responsible for selling the car. It said it had the right to decline a claim. But it thought it had given Miss R incorrect information and so it agreed to pay Miss R £200 compensation. AXA asked for an ombudsman to review the complaint, so it's come to me for a final 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 was sorry to hear that Miss R was injured in the accident. I hope her condition has improved. I can see that Miss R accepted the adjudicator's explanation of why AXA hadn't done anything wrong by not covering her claim or approaching her partner's insurer on her behalf. So I'll not consider that further here.

AXA said it didn't recover the car after the accident and didn't appoint any agent to do this. AXA said it didn't order the car to be scrapped. And so it doesn't think it's responsible for the loss. But I don't agree. I'll now explain why I think this.

After the accident, Miss R's car was recovered by the police to a compound. When Miss R notified AXA of the accident, I think she was very clear that her partner didn't have insurance to drive her car. Miss R explained that the police had written to her saying that the car needed to be moved. She provided the address of the compound to AXA.

Yet instead of telling Miss R that it wouldn't cover the claim, AXA told her it would recover her car to a safe compound and process the claim. AXA explained that due to the circumstances liability would likely be split.

So Miss R was left thinking her claim was being dealt with and her car was in safe storage. But AXA didn't instruct a recovery of the car and as far as I can see it didn't tell Miss R about its decision. Two months later, when Miss R called for an update, it told her that it wouldn't cover the claim and she should pick up her car. By that time it had been sold for salvage.

So I think AXA caused Miss R prejudice and loss by misleading her and so depriving her of the opportunity to recover her car, retain her number plates and sell the salvage. I think it should restore Miss R's position by making good her losses and paying her compensation for the trouble and upset it caused. The adjudicator recommended that AXA should pay her £200 compensation. I think this is fair and reasonable as it's what I'd require in similar situations.

my final decision

My final decision is that I uphold this complaint in part. I require AXA Insurance UK Plc to do the following:

1. Find out and pay Miss R the salvage cost the salvage agent paid to the recovery agent, adding interest at 8% simple per annum from the date of notification of the claim to the date of settlement.
2. HM Revenue & Customs requires AXA to withhold income tax from that interest. It must give Miss R a certificate showing how much it's taken off if she asks for one.
3. Advise Miss R on how to recover her registration plates or, if this recovery isn't possible, pay her for their cost, subject to reasonable evidence of this.
4. Pay Miss R £200 compensation for the distress and inconvenience caused by its level of service.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 1 March 2019.

Phillip Berechree
ombudsman