

complaint

Mr V complains that the policy administrator on behalf of Tesco Underwriting Limited said his motor insurance policy was void and refused to pay his claim.

background

Mr V bought a second-hand car which was later involved in an accident. The policy administrator said it was beyond economic repair. But Tesco Underwriting did not pay the pre-accident value of the car. The policy administrator said that Mr V had failed to disclose that an engineering company had modified the car.

our adjudicator's view

The adjudicator recommended that the complaint should be upheld. She concluded that Mr V answered the policy administrator's questions to the best of his knowledge and provided the correct information. She said that there was not a change to the vehicle following its manufacture. She recommended that Tesco Underwriting should:

1. reinstate the policy and pay the claim plus 8% simple interest from the date of the claim to the date the payment is made;
2. pay £300 compensation for distress and inconvenience;
3. remove the voidance from any internal or external database;
4. provide Mr V with a letter confirming that it voided the policy in error and he does not need to declare it.

my provisional decision

After considering all the evidence, I issued a provisional decision on this complaint to Mr V and to Tesco Underwriting on 23 April 2014. I summarise my findings:

The policy administrator asked Mr V a clear question.
Mr V's answer was not merely careless but reckless as to the truth.
It is not unfair or unreasonable for Tesco Underwriting to treat the policy as void and to decline to pay his claim.
Tesco Underwriting has had to deal with a claim from the third party. So I do not consider that it would be fair and reasonable to order it to refund premiums to Mr V.

Subject to any further representations by Mr V or Tesco Underwriting, my provisional decision was that I was not minded to uphold this complaint.

Tesco Underwriting agrees with the provisional decision.

Mr V disagrees. He says, in summary, that he believed his car was a limited edition from the factory.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

A large manufacturer made a sporty hatchback with a diesel engine of about 150 brake horsepower (bhp). One of the manufacturer's franchised dealers registered a number of such cars in about 2006. Each of them had a registration document (V5) stating its make, model and engine type.

I have seen a copy of a card or certificate issued by an engineering company saying:

"Welcome to your [car]
Build number 074
[the dealers] have commissioned... [engineering company] to build this limited edition high performance diesel version of the [make and model] sport hatch"

Despite the use of the word "build" I consider it likely that the engineering company had taken a limited number of standard models and modified them. The modifications included increasing the power to about 200 bhp and upgrading the brakes. Each of the cars was then known not only by its make, model and engine type but also by the trading style of the engineering company.

Mr V acquired a sporty diesel hatchback in early March 2012. I find it likely that – in order to secure the best price - its vendor had advertised the car by the trading style of the engineering company. And I find it likely that Mr V had searched hard to find such a rare vehicle and that he knew that it was about 200 bhp.

He also had the engineering company's certificate, which he later produced to the policy administrator. I consider that he knew from the certificate that the engineering company had modified the car from the manufacturer's standard specification after it left the factory.

Mr V telephoned the policy administrator twice. First he asked it to add the sporty diesel hatchback as a temporary additional vehicle on his policy. About two weeks later he asked it to make it the only car on his policy.

From the call recordings, I note that Mr V gave a 2006 registration number and the adviser identified the make, model and engine type from a database. The adviser said that the car was 150 bhp. Mr V agreed.

The adviser asked Mr V a clear question:

"Have there been any modifications or changes to the car's standard specifications including any optional extras?"

Mr V replied:

"No".

I find that Mr V's answer was incorrect.

And I am mindful of the following considerations:

1. I have found it likely that Mr V knew that his car was about 200 bhp;
2. I have found that Mr V knew that the engineering company had modified the car from the manufacturer's standard specification;
3. on two separate occasions the adviser reminded him that the standard specification was 150 bhp;
4. on two separate occasions he agreed his car was 150 bhp;
5. Mr V said his car had not been modified from its standard specification.

Therefore I consider that Mr V's answer was not merely careless but reckless as to the truth.

I say this notwithstanding that Mr V later received a V5 (with a cherished number) stating the standard make model and engine type.

I infer that Mr V renewed the policy in June 2012 (because I have seen a later amended policy schedule with a renewal date of June 2013).

In early 2013, Mr V's car was badly damaged in an incident involving a third party. Both Mr V and the third party made a claim on his policy. Mr V provided the engineering company's certificate as evidence of the value of his car. But the policy administrator said the policy was void.

Our adjudicator asked what Tesco Underwriting would have done if Mr V had given correct information about his car. The policy administrator said that this was not relevant because Mr V deliberately misrepresented the car.

I have found that Mr V's answer amounted to a reckless misrepresentation. I conclude that it is not unfair or unreasonable for Tesco Underwriting to treat the policy as void and to decline to pay his claim.

We would usually expect an insurer to return the full premium on a policy which is treated as void. But I bear in mind that Tesco Underwriting has had to deal with a claim from the third party.

Therefore I do not consider that it would be fair and reasonable to order it to refund premiums to Mr V.

my final decision

For the reasons I have explained, my final decision is that I am not minded to uphold this complaint. I make no award against Tesco Underwriting Limited.

Christopher Gilbert
ombudsman

