

complaint

Miss F complains that Advantage Insurance Company Limited (trading as Hastings Direct) (Hastings) rejected her claim made under her motor insurance policy following an accident. She wants it to uphold her claim.

background

Miss F was involved in a high speed collision in wet conditions. Hastings' engineer inspected her car and determined that both rear tyres weren't compliant with the legal limits. Hastings' senior in-house engineer considered that the unroadworthy condition of the tyres would have been a contributing factor towards the accident. It therefore rejected her claim.

Miss F disagreed with this. She said initially that the tyres had been changed. She then obtained her own engineer's comments. She said that the tyres were within the legal limit and weren't the cause of the accident.

Our adjudicator didn't recommend that the complaint should be upheld. He thought that Hastings' engineer had provided comments as to why he believed the tyres were a major contributor to the accident. He also looked at the photos of the tyres and thought that Hastings had reasonably thought that they were bald.

Miss F replied that the accident was caused by the wet conditions only.

my findings

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

Hastings rejected Miss F's claim on the basis that she had failed to maintain her car in a roadworthy condition and that this failure had been instrumental in its loss. Our remit in cases like this is to investigate whether the insurer acted fairly and reasonably when it made the decision about the claim. We also check, most importantly, that it did this in line with the terms and conditions of the policy

The relevant term is on Page 46 of Miss F's policy booklet under the heading "*Care of your Car*":

"You or any insured driver must take all reasonable steps to... maintain your car in an efficient and roadworthy condition; we may examine your car at any time."

There is disagreement over whether the car's tyres were roadworthy at the time of the accident. Hastings' engineer found that the car's rear tyres were illegal due to lack of tread. Its senior engineer thought that this had contributed to the accident. Miss F provided a report which said that the rear tyres were worn but still legal. The examiner thought they should be changed. In response, Hastings' engineer provided specific comments as to why the state of the tyres would have contributed to the accident:

"The image clearly shows tyre is illegal with no tread showing over 50% in some areas. As the vehicle is rear wheel drive this would have serious implications if driving in wet conditions at high speeds. The tyre would not be able to displace the water underneath it due to the worn tread and would result in the car aqua planing [sic] out of control."

I think this is more expert and persuasive than Miss F's garage's report. It is specific and detailed and completed by an engineer with stated qualifications, whilst Ms F's report isn't.

Miss F says that her car passed its MOT seven months before the accident. But I don't think this is relevant as it doesn't describe the car's tyres at the time of the accident.

Miss F also says that her tyres could have lost tread during the accident or when the car was dragged on the collection vehicle. But this wouldn't explain the uneven wear on the tyres. Miss F also thought that her car's tyres might have been exchanged before the car was examined by Hastings. But I've seen no evidence to show this happened.

It is clearly a requirement under the policy to keep the car roadworthy. I think that Hastings has shown that its decision was based on expert engineering evidence that Miss F's car's tyres were illegal and that therefore her car was in an unroadworthy condition. It has provided expert evidence of how this would have contributed to the accident. Therefore I don't think it was unreasonable for Hastings to reject Miss F's claim.

my final decision

For the reasons I've discussed, it is my final decision that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss F to accept or reject my decision before 23 November 2015.

Phillip Berechree
ombudsman