

complaint

Miss M complains about a car she bought under a conditional sale agreement with Moneybarn Limited. The car developed a fault with the Diesel Particulate Filter (DPF) within the first hour of collection and later developed a problem with the timing belt. Miss M feels the car was not of satisfactory quality when it was supplied to her and she would like the repair costs reimbursed. Further problems have developed with the car and she has surrendered it. She also wants compensation.

background

In November 2014, Miss M bought a used car. It was around six years old at that time and had travelled 80,000 miles. The cost of the car was covered by a conditional sale agreement with Moneybarn Limited. Soon after she bought the car there was a problem with the DPF which was resolved. Around August 2015, the Cam Belt snapped causing damage to the engine. Despite expensive repairs the car still has problems. She has since surrendered it.

Miss M initially wanted Moneybarn Limited to reimburse her repair costs. It refused as due to the length of time that had passed since she bought it, Moneybarn Limited did not accept there was a problem at the point of sale. Miss M now also wants compensation and her liability for the car to end.

The adjudicator explained that she did not think the complaint should be upheld as she was not satisfied the fault was present when the car was supplied to Miss M.

Miss M did not accept the adjudicator's findings and the complaint has now been referred to me for final consideration.

Miss M also provided an independent report dated 14 September 2015, which suggested the Cam Belt should have been replaced at 80,000 miles and an inspection report dated 21 September 2015 suggesting the problem was there at "policy inception". In response Moneybarn pointed out that the manufacturing guidelines for replacing the Cam Belt is at 100,000 miles. Further, the inspection report says the date of sale was 27 August 2015, which was incorrect. It was not prepared to accept this report and pay for repairs. It said it was inaccurate.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.. Having done so, I have not upheld this complaint.

Miss M took out a conditional sale agreement with Moneybarn Limited to fund the cost of the car. Conditional sale agreements are covered by the Sale of Goods Act 1979, which says that, in a conditional sale agreement, there are implied conditions including a condition that the goods will be of satisfactory quality (s.14).

The concept of 'satisfactory quality' is expanded by the Sale and Supply of Goods Act 1994 and includes; fitness for purpose; appearance and finish; freedom from minor defects; safety; and durability.

The car was around six years old and had travelled more than 80,000 miles when Miss M acquired it. She has since driven a further 7,000 miles. The fault did not however develop until August 2015 which is around 9 months later. By this time the car had travelled around 86,000 -87,000 miles in total. Had the fault been present when the car was supplied to Miss M, I would have expected it to become apparent within a reasonably short period after she bought the car. I have considered the engineers report dated 14 September 2015, but this states the date of sale was 27 August 2015; its findings that the fault was present at “policy inception” are therefore unreliable. I also do not find that the Cam Belt should have been replaced at 80,000 miles as suggested by the engineer. The manufacturing guidelines state that it should be changed at 100,000 miles. I accept these guidelines.

Having considered the age and mileage of the car when the fault developed, and the amount of time that had elapsed since Miss M bought the car, I think it more likely than not that the fault was not present when the car was supplied. Had there been problems when it was bought I do not believe she would have been able to use the car and drive a further 7,000 miles. I think it more likely than not that it developed around August 2015, which is when it became apparent to Miss M. I note the car has been repaired and has further faults. Miss M would like her liability to end and get compensation. However, I am not satisfied that these later problems were present at the point of sale.

As I have been unable to find the car was not of satisfactory quality when it was supplied to Miss M there are no grounds for me to instruct Moneybarn Limited to meet the repair costs that Miss M incurred or provide compensation.

my final decision

My final decision is that I do not uphold this complaint and I make no award or direction against Moneybarn limited.

Under the rules of the Financial Ombudsman Service, I’m required to ask Miss M to accept or reject my decision before 10 December 2015.

Clare Hockney
ombudsman