

complaint

Miss B's unhappy that U K Insurance Limited (trading as Churchill) has refused to deal with her motor insurance claim.

background

Miss B had an accident. She drove into the back of the car in front. She made a claim on her motor insurance policy. Churchill says it's a condition of the policy that her car is kept in a roadworthy condition and all reasonable steps are taken to protect the vehicle from damage. But Miss B's car had a tyre that was worn down beyond the legal limit and this contributed to the accident. So, it's refused to deal with the claim.

Miss B wants the claim dealt with. She also complains about Churchill's customer service.

Our adjudicator felt this complaint should be partly upheld. She said:

- The policy says the car must be kept in a road worthy condition. At the time of the accident the tread on a front tyre was very low and bald in places. It was below the legal limit. The car legally wasn't allowed on the road.
- It took Churchill slightly longer to deal with the claim than we'd expect. It should pay £100 compensation for this.

Miss B and her representative aren't happy with this. They've asked for an ombudsman review. In summary they say if Miss B had known of the tyre problem she would've replaced it. Even if the car was un-roadworthy the tyre problem wasn't a major contributory factor in the accident. It would've happened anyway. Churchill should deal with the claim.

Churchill doesn't agree that it should pay any compensation. It says it kept Miss B updated.

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 agree with the adjudicator's conclusions for the same reasons.

Churchill's engineer said *"I understand from the Policyholder that the road conditions at the time of the incident were wet. It is my professional considered opinion, that the tyre condition at the time of the incident may have been a contributory factor to the accident"*.

Miss B says the road was damp not wet. She commissioned her own independent report. It says *"It is our Engineers professional opinion that albeit the defective tyre may have very slightly extended the stopping distance, due to the extent of damage caused to the vehicle, the incident would still have occurred regardless of the tyre condition, i.e. there would have simply been insufficient stopping distance between [Miss B's car] and the vehicle in front. We note it does state within the Insurance policy wording that it is the responsibility of the Insured or any person covered by the policy to ensure the vehicle is in a roadworthy condition which would include the tyres being legal, however it is still the Engineers professional view that the incident would still have occurred regardless of the condition of 1 of the four tyres"*.

It isn't disputed that the policy required the car to be in a road worthy condition or that a tyre tread was below the legal limit. It's impossible now to determine exactly what effect this would've had. But the engineers say it may have been or was a contributory factor in the accident.

On balance I think it's reasonable to assume that the condition of the tyre would've affected Miss B's ability to brake and control the car whatever the weather. The car was also clearly un-roadworthy

So, although I sympathise with the unfortunate position Miss B has found herself in and understand her frustration, I think Churchill's acted fairly and in line with the policy terms and conditions by refusing to deal with her claim. And taking everything into account I don't think I can reasonably require it to now deal with her claim.

Overall, I don't see any compelling reason to change the proposed outcome in this case.

my final decision

I partly uphold this complaint and I require U K Insurance Limited (trading as Churchill) to pay Miss B £100 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 20 June 2016.

Stephen Cooper
ombudsman