

complaint

Mr T has complained that Sabre Insurance Company Limited held him to at fault for causing an accident under his motor policy.

background

In April 2018, Mr T was involved in an accident with a motorcycle or tricycle rider when the road they were both travelling on split into lanes. Mr T said the traffic was congested and moving slowly, he checked his mirrors before manoeuvring, saw nothing was approaching behind him started to execute his manoeuvre when this tricycle hit his driver's door.

He didn't believe the accident was his fault. Sabre thought differently. It believed it couldn't defend the case if it went to court, as it was for Mr T to keep a lookout doing any manoeuvre. Therefore, it paid the other driver's claim, stepped back Mr T's No Claims Discount (NCD) and registered a 'fault' claim on his insurance record, which in turn has increased his premium.

Mr T complained to Sabre, but it didn't think it had done anything wrong. He then brought his complaint to us. The investigator also didn't think Sabre had done anything wrong.

Mr T disagreed so his complaint has been passed to me to decide.

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'm not upholding this complaint. I'll now explain why.

As the investigator explained, it's not the role of this service to decide which party in this case was at fault for causing the accident, only a court of law can do that. The insurance companies representing the parties can also agree between themselves which party is more likely to be deemed at fault for causing the accident. It's only when the insurers disagree on this – the matter goes to court. It's fairly rare insurers don't agree, since they deal with such issues daily as part of their business and are fully aware of what a court is likely to decide in most circumstances. Here the other party wasn't insured, but instead was represented by a lawyer.

In almost all motor policies, there's a term, which permits the insurer to take over, defend or settle any claim against its policyholder as it think fits. And Sabre's policy is no different. Further, when anyone buys a motor policy, as Mr T did, he's agreeing to this term.

My role and that of this service is merely to see if Sabre applied this term to Mr T's circumstances fairly and reasonably. I consider it did. This is because it listened to Mr T's account and his further account and took both accounts on board in making its decision. It believed given the circumstances, it wouldn't able to prove at court that the accident wasn't Mr T's fault.

It's not the case that Sabre didn't allow Mr T to give as full an account as possible. It's also not the case that Sabre ignored anything he said about how the accident occurred either. It's simply because as Mr T was indicating and manoeuvring, he is deemed to have the greater duty of care. There's no other available evidence otherwise, such as witnesses or CCTV

footage to challenge this or support Mr T's view that the other party was at fault instead. Sabre is entitled to come to any decision on this it deems appropriate. Provided it carefully took account of Mr T's evidence on the matter, then it reasonably came to its decision, irrespective of whether Mr T agrees with that decision or not. It's my opinion that is the case here, which is why I consider Sabre has done nothing wrong.

I do understand why it's upsetting for Mr T that Sabre paid the other driver's claim when he wasn't insured. However, the claim for damage was adequately substantiated by the other driver's representatives and in those circumstances despite the lack of insurance, there's nothing wrong in Sabre paying that claim, rather than also paying legal costs if the other driver issued legal proceedings. That is the point of the term in insurance policies giving the insurer unfettered rights to deal with any claim as it thinks fit.

my final decision

So for these reasons, it's my final decision that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 29 February 2020.

Rona Doyle
ombudsman