

complaint

Mr D says MCE Insurance Company Limited didn't offer him enough for a stolen motorcycle when he made a claim on his motorcycle insurance policy.

background

Mr D bought the bike from a dealer in November 2016. It was sold to him as damaged and repaired. Mr D paid £5,100 for it. The bike was stolen in January 2018. When MCE was checking the claim, it found the bike had been written-off in 2011. The total loss category assigned to it meant that it should have been broken up for parts. So MCE only offered Mr D the salvage value for the bike, which was £1,011 – less the policy excess.

Mr D said he didn't know the bike had been written-off for parts. He bought and insured it in good faith as damaged and repaired. He was given the bike's V5 registration document from the DVLA. He thought a V5 wouldn't have been issued if the bike wasn't roadworthy. And he thought MCE had mentioned the bike having been written-off during the sales call.

Our adjudicator noted that MCE hadn't in fact referred to the bike's history at all during the sales call. So he didn't think it was Mr D's fault that it wasn't aware of the total loss category. Had it raised the issue, he thought Mr D was likely to have checked at that point. He thought MCE had affirmed cover by offering to pay the claim. In his view, paying the market value for the bike wouldn't be fair, as it was more than Mr D had paid for it. But he proposed that MCE should offer Mr D what he'd paid, less 20% for the damage.

MCE said Mr D should have checked when he bought it that the bike was roadworthy. It wouldn't have offered cover had it known the facts. MCE agreed to pay the claim to acknowledge that it hadn't asked about the bike's history. But the policy only requires it to pay a vehicle's value immediately before its loss. The value of Mr D's bike was its write-off value. MCE queried how the adjudicator had decided only a 20% deduction was fair for a non-roadworthy bike. And it asked for a review of the complaint by an ombudsman.

my findings

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

Mr D wasn't aware the bike had been categorised as not roadworthy in 2011 and should have been broken up. When he first saw the bike it had been repaired and was in good condition. He bought it from a well-established dealership that seemed reputable.

The dealership says it requires people selling bikes to it to confirm that their bike hasn't been written-off. It says it carries out HPI checks on every bike and requires the seller to supply the V5 registration document. So I can see why Mr D was confident about his purchase. But an HPI check would have shown that the bike should have been broken up for parts. So it looks as though the dealership may not have carried out the check on the bike Mr D bought. Or it could have done so and made an administrative error.

I can see why MCE isn't happy about paying more than the bike's salvage value. The dealership sold Mr D a bike that was worth far less than the £5,100 he paid for it. And MCE would never have insured it at all had it known the write-off category assigned to it.

But we take a 'fair and reasonable' approach to situations like this. Mr D bought the bike in good faith from a reputable dealership. He was told by it the bike had been damaged but repaired. It was sold to him in one piece as a working vehicle. The dealership said it had checked the bike's history. And Mr D was given a V5 registration document for it.

I don't think many consumers would expect the DVLA to issue V5 documents for vehicles that have been written-off for parts only. Taking everything into account, I think it was reasonable for Mr D to be confident that the bike was roadworthy. He had no reason to think otherwise when he bought it and insured it. So he paid for cover fully expecting MCE to pay the market value for the bike should it be lost.

Had MCE asked about the bike's history at the point of sale, I think Mr D may well have contacted the dealership. The dealership or Mr D may then have noticed that the HPI check wasn't done, or that an error had been made.

In the circumstances, I think it would be fair and reasonable for MCE to pay Mr D more than the bike's salvage value. I don't think it should pay the market value for it, as that's more than Mr D paid in the first place. I think the adjudicator's proposal that MCE should base the payment on the sum Mr D paid for the bike is reasonable. I think it's also fair for MCE to deduct 20%. Mr D knew the bike was sold as damaged and repaired - although MCE didn't - so the price he paid is likely to have reflected that.

my final decision

My final decision is that I uphold this complaint. I require MCE Insurance Company Limited to do the following:

- pay Mr D the difference between its original offer and the £5,100 he paid for the bike – minus 20%
- add interest to the sum above at the simple yearly rate of 8%, from the date of the original offer to the date of settlement

If MCE considers that it's required by HM Revenue & Customs to withhold income tax from the interest, it should tell Mr D how much it's taken off. It should give him a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 17 November 2018.

Susan Ewins
ombudsman