IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH.

CWP 14848 of 2012

Date of Decision: April 7, 2017

Meena Devi and others

…..Petitioners

Vs.

Oriental Bank of Commerce and others

…..Respondents

CORAM: HON’BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr. Anand Chhibbar, Sr. Advocate with
Mr. Gaurav Mankotia, Advocate for the petitioners.

Mr.Raj Kumar, Advocate for respondent No.1.

Mr. Neeraj Khanna, Advocate for respondent No.2.

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**M.M.S. BEDI, J.**

The petitioners are the claimants who had been granted compensation by the Motor Accident Claims Tribunal, Patiala vide award dated May 2, 1996. The amount of compensation had been enhanced by the High Court vide judgment dated October 13, 2010 while deciding the cross-appeals. In FAO No. 2282 of 1996 titled Oriental Insurance Company Ltd. Vs. Meena Devi and others, an interim order was passed on February 19, 1998, annexure P-2, ordering that half of the amount awarded by the Motor

Accident Claims Tribunal on May 2, 1996 be released to the claimants and rest of 50% of the awarded amount be deposited by the Oriental Insurance Company – respondent No.2 in five different FDRs @ 11.5% compounding quarterly interest with respondent No.1. The payment of the FDRs was specifically ordered to be subject to the Court order. On February 21, 2011, the petitioners filed an application before the Motor Accident Claims Tribunal, Patiala, for release of the five FDRs issued pursuant to the interim orders dated February 19, 1998 vide an application annexure P-5. The said application was finally disposed of by the Motor Accident Claims Tribunal, Patiala on November 17, 2011. As Seema Gupta had died, it was ordered that the FDR pertaining to Seema Gupta be released to her husband Harish Kumar Mittal, who was also the natural guardian of other natural heirs of Seema Gupta. Despite the final decision of the FAOs and orders of the Executing Court, no payment was made by respondent No.1 Bank, therefore, a representation was sent on behalf of the petitioners on November 29, 2011 to make the payments of the above said FDRs along with 11.5% interest compounding quarterly. As no response was received, another representation was submitted to the Chairman of the Bank on December 20, 2011 for disbursement of the FDRs amount along with interest. Copy of the representation has been appended with the petition as annexure P-8. As considerable period passed and no response was received, another representation was filed by the claimants/ legal representatives for release of FDRs along with interest. A complaint was filed before the Banking

Ombudsman – respondent No.3 on February 6, 2012, annexure P-9, to take action in the matter as the money was not being paid to the claimants of the deceased. Respondent No.1 Bank sent the following reply to the petitioners on February 15, 2012:-

> "Please refer to your above mentioned letter. This is to inform that the FDRs in question were made by our Branch Office, Tripri complying the order of the Hon'ble Court of Addl. District Judge, Patiala dated 16.05.1998 (copy enclosed) for the specific period of 5 years with direction not to make the payment without order of the Court.
>
> In view of your submission of Court order dated 17.11.2011 regarding release of FDRs in favour of the claimants, we have already advised the branch to make the payment of FDRs to the beneficiaries on the basis of court Order dated 16.5.1998. Copy enclosed for your reference and record.
>
> You are requested to submit your claim to B/o Tripri for further necessary process in the matter."

Copy of the reply of the Bank has been appended with the petition as annexure P-10. The petitioners claimed that they were surprised to note that the FDRs were made for a period of 5 years only in contravention to the order dated February 19, 1998 passed by the High Court in FAO No. 2282 of 1996. In response to letter annexure P-10, dated February 15, 2012, the petitioners addressed a letter to respondent No.1 Bank calling upon the Bank to issue suitable directions to the Branch Office, Tripri, Patiala, to make the payments as per the orders of the Punjab and

Haryana High Court dated February 19, 1998 and order of Additional District Judge, Patiala dated November 17, 2011, vide annexure P-11 dated February 27, 2012 but the petitioners received a letter from the Bank that 5 FDRs were made on May 16, 1998 as per the orders of the District Judge, Patiala, carrying rate of interest at the rate of 11.5% . There was no court's orders for the renewal of these FDRs. As per the bank's policy, in the case of encashment of over-due term deposit interest for the overdue period shall be paid at the rates applicable to saving bank deposit as such the matter was closed under Clause 13 (a) of the BOS, 2006.

Aggrieved by the action of respondent No.1 in not making payments of FDRs along with 11.5% interest compounding quarterly as per the orders passed by the High Court on February 19, 1998 in FAO No. 2282 of 1996, the petitioners have preferred this writ petition.

Respondent No.1-Oriental Bank of Commerce has filed written statement pleading that the petitioners are not entitled to any relief except for the amount of the FDRs with interest at the rate of 11.5% for 5 years. It has been pleaded that respondent No.1 had always been ready and willing to pay the legal amount as per the rules and the petitioners have been apprised of the said fact. Respondent No.1 has taken up a specific plea that as per the instructions of respondent No.1 Bank in case of encashment of over-due term deposit, the interest for the over-due period shall be paid at the rate as applicable for saving bank deposits.

I have heard counsel for the petitioners as well as counsel for the respondents and carefully gone through the pleadings and the relevant provisions pertaining to the renewal of the deposits in the FDRs and various instructions pertaining to the payment of interest.

During the course of arguments, the petitioners have brought to the notice of the Court the Citizens Charter issued by the Oriental Bank of Commerce and the various instructions of Reserve Bank of India governing payment of interest on the FDRs after the period of expiry of the FDRs. It is not a disputed fact that the award of the Motor Accident Claims Tribunal, Patiala was challenged by the Oriental Insurance Company Ltd. by filing FAO No. 2282 of 1996. The interim order dated February 19, 1998 passed by Single Bench of this Court reads as follows:-

> "CM No. 13451-CII/97
> in FAO No. 2282/96.
>
> Oriental Ins. Co. Ltd. Vs. Smt.Meena
>
> Mr. Deepak Suri, Advocate, counsel for the applicant/ respondent.
>
> Mr. Ashok Aggarwal, Sr. Advocate with Ms.Sandeepa Trehan, Advocate for the appellant.
>
> In this application prayer made is to vacate ex-parte stay order granted on 05.11.1996.
>
> After hearing the Ld. Counsel for the parties, it is directed that ½ amount of compensation as awarded by the MACT along with interest, shall be paid to the claimants proportionately and the remaining ½ amount with interest shall be deposited with the tribunal. Amount deposited with the tribunal shall be put in FDR

in a nationalized bank carrying maximum interest. Disbursement of the amount deposited in FDR shall be considered at the time of final decision of the appeal.

19.02.98 Sd/-V.K. Jhanji, Judge,"

Copy of the said order is annexure P-2. It is also not disputed that pursuant to the order dated February 19, 1998, half of the amount as awarded by the Motor Accident Claims Tribunal on May 2, 1996 was released to the petitioner/ claimants/ legal representatives and rest of the 50% of the awarded amount was deposited with the Oriental Bank of Commerce- respondent No.1 in 5 different FDRs at the rate of 11.5% interest compounding quarterly. Details of the FDRs are as follows:-

" (a) FDR No. 800110 dt. 28.05.98 of Oriental Bank of Commerce, Tripuri, Patiala, in the name of Smt. Meena Devi with interest upto date for a sum of Rs.2,21,830/-.

(b) FDR No. 800111 dt. 28.05.98 of Oriental Bank of Commerce, Tripuri, Patiala, in the name of Sh.Vikas Gupta, with interest for a sum of Rs. 44361/-.

(c) FDR No. 800113 dt. 28.05.98 of Oriental Bank of Commerce, Tripuri, Patiala, in the name of Smt. Seema Gupta, with interest for a sum of Rs. 44361/-.

(d) FDR No. 800111 dt. 28.05.98 of Oriental Bank of Commerce, Tripuri, Patiala, in the name of Sh.Anu Gupta, with interest for a sum of Rs.51755/-.

(e) FDR No. 800111 dt. 28.05.98 of Oriental Bank of Commerce, Tripuri, Patiala, in the name of Smt.

> Ashima Gupta, with interest for a sum of Rs.51755/-."

The FAO was finally decided on October 13, 2010 enhancing the compensation. The petitioners had sought the release of the FDRs vide application annexure P-5 before the Executing Court dated February 21, 2011. The Executing Court disposed of the application by passing the following order on November 17, 2011:-

> "Present:- Sh.Mohit Kapoor, Adv. for the claimants.
>
> The applicants are seeking permission to release the FDRs. It has been stated that a FAO was filed in the Hon'ble High Court and in terms of the order dated 19.2.1998, it was directed that half of the amount of compensation as awarded by the Motor Accident Claims Tribunal along with interest shall be paid to the claimants and remaining half of the amount along with interest shall be deposited in the Tribunal in the form of FDR in a Nationalized bank carrying maximum interest and the disbursement of amount deposited in FDR shall be considered at the time of final decision of the appeal. It has been stated that appeal was finally decided by the Hon'ble High Court, vide judgment dated 13.10.2010, copy whereof has been placed on record. Nazir has already made report to the effect that FDRs are in his custody. A subsequent to the deposit of FDRs, Seema Gupta, claimant No.3 had died and her LRs were impleaded vide order dated 29.10.2011. As the first appeal has already been disposed of by the Hon'ble High Court, FDRs pertaining to the claimants be released to them against proper receipt. The FDR pertaining to

Seema Gupta be released to Harish Kumar Mittal, her husband, who is also natural guardian and other natural heirs of Seema Gupta. File be consigned to the Record Room.

Pronounced. Sd/-Vivek Puri,

November 17, 2011 Addl. District Judge, Patiala."

Copy of the said order has been placed on record as annexure P-6.

Despite the above said orders, no payment was made by respondent No.1 Bank as such the petitioners had filed representations annexures P-7, P-8 and P-9 to the Bank, The Chairman of the Bank and Banking Ombudsman but as mentioned hereinabove, the petitioners had been offered the release of the amounts of the FDRs at the rate of interest which is applicable to the saving Bank deposits. Copy of the letter received from the office of the Banking Ombudsman reads as follows:-

"OFFICE OF BANKING OMBUDSMAN
Reserve Bank of India Building (4th Floor)
Sector 17, Chandigarh-160017
EPABX No. 2702271, 2702279, (Extension No.2104, 2107 & 2108) E-mail: bochandigarh@rbi.org.in BO (CHG) Comp. No. 04.2505/1213/2011-12.

June 1, 2012

Meena Devi & Vikas Gupta # 538, Street No.5,
Gurbax Colony, Patiala,

Dear Sir/ Madam,

Banking Services—Complaint No. BO(CHG)/Comm/ 04.2505/2010-11 against OBC, Patiala.

Please refer to your above complaint.

2. On taking up the matter with the bank, we have been informed that 5 FDRs were made on 16.5.1998 as per the orders of Addl. Distt. Judge, Patiala, carrying rate of interest @ 11.5%. There was no court's orders for the renewal of these FDRs. As per the bank's policy, in case of encashment of overdue term deposit, interest for the overdue period shall be paid at the rate as applicable to saving bank deposit.

3. In view of the above we are not pursuing the matter further and have closed the same under clause 13 (a) of the BOS, 2006.

4. This is issued as per orders of Banking Ombudsman.

5. You may note that cases closed under clause 13(a) are not appealable.

Yours faithfully,
Sd/-Parminder Singh,
Deputy Secretary"

Counsel for the respondents has vehemently contended that the petitioners are entitled to interest @ 11.5% compounding quarterly only for the first 5 years and the remaining period of maturity, the amount has been deemed to have been kept in saving account and will not fetch interest which is payable on the FDRs deposits.

I have considered the contentions of counsel for the petitioners as well as counsel for the respondents. It will not be out of place to refer to the guidelines of the Master Circular dated April 20, 2010 which deals with the conversion of the term deposits and provide that banks should allow conversion of the term deposits, daily deposits or recurring deposits to enable depositors to immediately reinvest the amount lying in the aforesaid deposits with the same bank in another terms deposit. The banks are required to pay interest in respect of such term deposits without reducing the interest by way of penalty, provided that the deposit remains with the bank after reinvestment for a period longer than the remaining period of the original contract. The policy of the Reserve Bank of India mentioned in para 104 of the Monetary Policy Statement 2010-2011 reads as follows:-

> "Conversion of Term deposits, Daily
> Deposits or recurring Deposits for
> Reinvestment in Term Deposits.
>
> 104. As per extant guidelines, banks should allow conversion of terms deposits, daily deposits or recurring deposits to enable depositors to immediately reinvest the amount lying in the aforesaid deposits with the same bank in another term deposit. Banks are required to pay interest in respect of such term deposits without reducing the interest by way of penalty, provided that the deposit remains with the bank after reinvestment for a period longer than the remaining period of the original contract. On a review of the extant regulatory norms and in order to facilitate better asset- liability management (ALM), it is proposed to permit banks to formulate their own policies towards conversion of deposits."

The Oriental Bank of Commerce- respondent No.1 has itself issued a Citizens' Charter as per the directions of the Reserve Bank of India. The Banking Codes and Standards Board of India have been circulated by

Oriental Bank of Commerce in January 2014. Para 8.7 of the Term Deposits reads as follows:-

> "8.7 **Term deposits**
>
> a. When you place a term deposit with us, we will obtain instructions from you in the account opening form for the disposal of your deposit at maturity.
>
> b. Where there are no instructions for disposal of the deposit at maturity, we will inform you well in advance through letter / mail / SMS about its impending date of maturity.
>
> c. In case we still do not receive any instruction from you, we will renew the deposit, excluding deposits like tax savings deposits etc, for the same period of time as the matured deposit at the prevailing rate of interest.
>
> d. We will inform you the procedure for withdrawal of term deposit before maturity. This information will also be made available in the account opening form / MITC / reverse of the FDR.
>
> e. We will inform you of the interest rates applicable and charges for premature withdrawal of term deposit.
>
> f. We will permit premature withdrawals of term deposits in accordance with the mandate 'Former or Survivor / Either or Survivor', provided you have given us a specific joint mandate from all the depositors for the purpose. We will provide for such a mandate in the account opening form.
>
> g. We will inform you, at the time of acceptance of the deposit, the terms and conditions and interest rate applicable in case you renew the deposits on a date after the date of maturity. This information will also be made

available in the account opening form / MITC / reverse of the FDR.

h. We will advise you of provisions of Income Tax Act applicable to the interest income accruing to you on your deposits, our obligations under the Act and provisions available to you for seeking exemption from Tax Deduction at Source.

i. We will obtain Form 15 G or 15 H as applicable from you at the time of application if you are not liable to pay tax on your interest income. You may submit to us such Form periodically as required, if you are not liable to pay tax on your interest income. We will acknowledge receipt of such Forms.

j. We will issue the requisite certificate within the stipulated period if we deduct tax from interest paid / accrued on your deposits.

k. We will indicate the tax deducted, if any, on interest on term deposits credited to your Savings / Current account in the passbook / statement of account."

The performa of Oriental Bank of Commerce in term deposit case clearly contains stipulation that in case of death of any depositor, premature payment would be made to the survivor and it has also been mentioned that if any instructions given, deposit will be auto renewed for same period at prevailing rate.

In view of the instructions of respondent No.1 Bank and taking into consideration the directions which had been issued by the High Court vide order dated February 19, 1998 that amount deposited with the tribunal shall be put in FDRs in nationalized bank carrying maximum interest and disbursement of the FDRs shall be considered at the time of final decision of the appeal. The FDRs have been made at the rate of 11.5% interest compounding quarterly make it mandatory of the bank to grant interest @ 11.5% compounding quarterly. As per the order passed by the Executing Court on November 17, 2011, a direction was issued that the amount of the FDRs be released alongwith interest. It is not disputed fact that the 5 FDRs mentioned hereinabove for different amounts are lying with the Bank. Even if these were not renewed from time to time or any instructions were not issued to the Bank as per Para 8.7 (c), respondent No.1 is liable to release the amount deeming the FDRs having been renewed for the same period from time to time w.e.f. the date of deposit as the matured deposit had the prevailing rate of interest i.e. 11.5% compounding quarterly. It is also not out of place to mention here that as per the above said Code of the Oriental Bank of Commerce, the Bank is required under Para 8.7 (b) to inform the deposit well in advance through letter/ mail /SMS about its impending date of maturity and in case no instructions having been received from the depositor they are liable to renew the deposits excluding deposits like tax savings deposits etc. for the same period of time as the matured deposit at the prevailing rate of interest.

In view of the above circumstances, this petition is allowed with cost of Rs.25000/-. A direction is issued to respondent No.1 Bank to release the amount of FDRs Nos.800110, 800111, 800112, 800113 and 800114 calculated till April 7, 2016 with interest @ 11.5% compounding quarterly within a period of one month after the receipt of certified copy of the order.

April 7, 2017 (M.M.S.BEDI)
sanjay JUDGE

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| Whether speaking/ reasoned: | Yes/ No. |
| Whether reportable: | Yes/No. |