Case Number: 1305978/2024

EMPLOYMENT TRIBUNALS

Claimant: **Mr T Mitchell**

Respondent: **Jaguar LandRover Ltd**

JUDGMENT

The respondent's application dated **4 March 2025** for reconsideration of the judgment sent to the parties on **21 February 2025** is refused.

REASONS

There is no reasonable prospect of the original decision being varied or revoked, because:

Ground 1

The deduction of 10% under section 122 (2) Employment Rights Act 1996 was made for the reasons I set out in paragraph 39 of the Reserved Remedy Judgment sent to the parties on 21 February 2025. I found no good reason to apply different deductions to the basic award and the compensatory award **(Renewi UK Services Ltd v Pamment EA 2021 000584).** In her written submissions Ms Rumble did not submit that different percentage reductions should be made to the basic award and the compensatory award on the ground the **Polkey** deduction applies only to the compensatory award as now contended in paragraph 5 of the reconsideration application; she submitted the percentage reductions to be applied to the basic and the compensatory award should be the same, albeit she submitted the percentage should be 100% resulting in a nil award.

Ground 2

Ms Rumble's written submissions did not address the issue of the need to avoid penalising the claimant twice for the same conduct (**Lenlyn UK Ltd v Kular UKEAT/0108/DM**). During her oral submissions I invited her to do so. In reply she said contributory conduct was the key point and then referred me to the order in which deductions should be made. She submitted that the compensatory award should be capped at 11 weeks' loss of earnings and I accepted this.

There was no submission that there should be no disparity between the ACAS percentage uplift and that to be applied for the claimant's conduct. The rationale for the percentage of the ACAS uplift is set out in the Reserved Remedy Judgment .Such an uplift is made in the circumstances set out in section 207A Trade Union and Labour Relations (Consolidation) Act 1992.

A judgment will only be reconsidered if it is in the interests of justice to so. There is a public policy principle that there should be finality in litigation. It is not in the interests of justice that a party be given the opportunity to make alternative or further submissions which they could have but failed to make at the time. It is not intended to be used by a disappointed party to provide a re-hearing (**Stevenson v Golden Wonder Limited 1977 IRLR 474 EAT**).

Date: 31 March 2025

Approved by

Employment Judge Woffenden