

2024:PHHC:036763

**124 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

RSA-990-2021 (O&M)
Date of decision: 13.03.2024

Nishtha Garg

....Appellant

Versus

The Registrar, Kurukshetra University

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Sarthak Gupta, Advocate, legal aid counsel
for the appellant

ANIL KSHETARPAL, J (Oral)

1. This is the plaintiff's Regular second appeal against the judgment passed by the First Appellate Court, which in turn has reversed the judgment and decree passed by the trial court. The appellant was a student of Swami Devi Dayal Institute of Engineering and Technology, District Panchkula. She appeared in first semester examination of B.Tech held by Kurukshetra University, but she could not qualify the examination. However, upon re-evaluation, it was found that two questions were not marked by the examiner. The result was refused and the score of the appellant was increased from 23 to 41. She filed a suit for recovery of the damages on account of mental harassment. The trial court awarded Rs.1,00,000/-, however, the First Appellate Court reversed the same on the ground that no evidence has been led to prove any financial loss.
2. Heard the learned counsel representing the appellant at length and with his able assistance perused the paperbook.

3. Learned counsel representing the appellant contends that the appellant has mental trauma as her answer sheet was not properly checked. He submits that the court should have granted some compensation even if there was no direct evidence to prove the financial loss.

4. This Court has considered the submissions made by the learned counsel representing the appellant.

5. Before awarding damages, the plaintiff was required to lead evidence to prove actual loss, however, she has failed to prove that. The First Appellate Court has concluded that two questions were not marked due to bonafide mistake. Even the examiner, who checked her answer-sheet, has appeared in evidence as DW2 and stated that she was not aware about the identity of the candidate. It has been stated that there was a bonafide mistake in failing to award marks for two questions.

6. Keeping in view the aforesaid facts, no ground to interfere is made out.

7. Hence, dismissed.

8. All the pending miscellaneous applications, if any, are also disposed of.

13.03.2024

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE