



**Upper Tribunal  
(Immigration and Asylum Chamber)**

Appeal Number: OA/02186/2013  
OA/02192/2013  
OA/02200/2013

**THE IMMIGRATION ACTS**

**Heard at Glasgow**

**Decision & Reasons  
Promulgated**

**On 18 December 2014**

**On 19 December 2014**

**Before**

**MR C M G OCKELTON, VICE PRESIDENT  
& UPPER TRIBUNAL JUDGE MACLEMAN**

**Between**

**M TALAH, M F N ASAD, & I ANWAR**

Appellants

**and**

**ENTRY CLEARANCE OFFICER, Islamabad**

Respondent

For the Appellants: Mr M Shoaib, of Shoaib Associates

For the Respondent: Mr M Matthews, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The appellants appeal against a determination by First-tier Tribunal Judge D'Ambrosio, dismissing their appeals against refusal of entry clearance as the children of a person settled in the UK. The appeals failed under the Immigration Rules and on ECHR grounds.

2. Their father is the sponsor. He had divorced the mother of the appellants, but has since re-married her. The appellants lived with her in Pakistan. At the date of the applications leading to this appeal and at the date of the ECO's decision she had not applied for entry clearance. She applied at a later date and is now with her husband in the UK.
3. The first, second and third grounds of appeal relate to the case under the Rules. Their point is that the judge should not have applied Appendix FM of the Immigration Rules as amended from 9 July 2012 but paragraph 297 of the pre-existing Rules.
4. That is correct, but it does not help the appellants. As Mr Matthews observed, their circumstances do not fall within the requirements of paragraph 297. Mr Shoib accepted that he was unable to find any argument that their appeals might succeed under the Rules.
5. The case was also put to the First-tier Tribunal under Article 8 of the ECHR, although on a rather confused basis. The fourth ground of appeal to the Upper Tribunal complains that the Article 8 aspect of the case was "not analysed properly under the Strasbourg jurisprudence". Mr Shoib asked us to look again at the case under Article 8. He said that the appellants have a half-sister living in Belfast and that while they have visited their father in the UK in the past, there is no certainty that they will be able to do so in the future.
6. The Article 8 ground of appeal is vague. It points to no material legal error, and none is apparent.
7. The decision to split the family, now and in the past, has been one of parental choice. If the matter were for fresh decision, we would have no difficulty in holding that there is no good reason for allowing entry clearance outside the Rules.
8. The determination of the First-tier Tribunal **shall stand**.
9. No anonymity direction has been requested or made.



19 December 2014  
Upper Tribunal Judge Macleman