



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

Appeal Number:  
VA/16287/2013

**THE IMMIGRATION ACTS**

**Heard at: Manchester**

**On: 3<sup>rd</sup> November 2014**

**Determination  
Promulgated**

**On: 6<sup>th</sup> January 2015**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE BRUCE**

**Between**

**Kobir Ahmed  
(no anonymity direction made)**

Appellant

**and**

**Entry Clearance Officer, Dhaka**

Respondent

**For the Appellant: Mr Hussain, Maya Solicitors**

**For the Respondent: Ms Johnstone, Senior Home Office Presenting  
Officer**

**DECISION AND REASONS**

1. The Appellant is a national of Bangladesh date of birth 12<sup>th</sup> May 1983. He appeals with permission<sup>1</sup> the decision of First-tier Tribunal Judge Heynes<sup>2</sup> to dismiss his appeal against the Respondent's decision to refuse him entry clearance as a family visitor.

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<sup>1</sup> Permission granted by First-tier Tribunal Judge Keane on the 24<sup>th</sup> July 2014

<sup>2</sup> Determination promulgated on the 25<sup>th</sup> April 2014

2. The Appellant stated that he wished to come to the United Kingdom in order to visit his brother. He and his son had made applications together. They stated an intention to remain in the UK for a period of four weeks.
3. The Entry Clearance Officer's (ECO) decision is dated the 22<sup>nd</sup> July 2013. It was not accepted that the applicants were genuine visitors who intended to return to Bangladesh at the end of the period stated by them: this was because the ECO was not satisfied that the Appellant's financial circumstances in Bangladesh were as stated. Nor was it accepted that the Appellant and his son could be maintained and accommodated in the UK, nor that they would be able to afford the cost of the return trip.
4. The Appellant and his son both appealed and the matter came before the First-tier Tribunal. The Tribunal examines bank statements submitted by the Appellant and finds that these fall short of corroborating his claimed level of income. At paragraph 16 the determination reads:

"16. However the burden of proof rests upon the Appellant. Establishing his claimed income is critical to the issue of intention. Nearly ten months have passed since the date of decision. In that time, the Appellant has provided bank statements which I do not find consistent with the claimed income and nothing at all to substantiate income from the sale of crops".
5. Having made that finding the Tribunal could not be satisfied that the Appellant as to intention or that he would be able to meet the costs of the trip - those being shared between himself and his brother - and the appeal was dismissed.
6. The grounds of appeal submit that there was a good deal of evidence which the First-tier Tribunal failed to have regard to. This is listed as items a)-p). It is submitted that the First-tier Tribunal has failed to make findings on that evidence, or make clear findings as to the Appellant's intentions. Paragraph 5 takes issue with the statement at paragraph 16 of the determination that "establishing his claimed income is critical to the issue of intention": the Appellant relies on the authority of Sawmynaden [2012] UKUT 00161 (IAC) and submits that to hold that the financial circumstances of the Appellant are entirely irrelevant. The finding that the trip could not be paid for is submitted to be contrary to the evidence of the bank statements which showed the brothers to have sufficient funds between them. It is argued that the determination fails to have regard to the evidence of the Appellant's social ties to Bangladesh.
7. Permission is granted on the ground that it is arguable that the First-tier Tribunal failed to consider all of the evidence in the round when

examining the issue of intention.

8. The Respondent opposes the appeal on all grounds.

### **Error of Law**

9. I find that the First-tier Tribunal did err in the manner set out in the grounds. The entire focus of the decision is on the Appellant's financial situation. Although I do not agree that financial circumstances are "entirely irrelevant" to intention it equally cannot be said that they are determinative of it. The Appellant had supplied a good deal of evidence relevant to intention which was not examined at all in this determination. There was no consideration given to his social ties to Bangladesh including his family, home nor any other aspect of his settled family life. Nor was any consideration given to the reasons for the trip nor the weight to be attached to the credible evidence of the Sponsor. For those reasons the decision is set aside to be re-made in the First-tier Tribunal.

### **Decisions**

10. The determination of the First-tier Tribunal contains errors of law and it is set aside.
11. The matter is to be re-made in the First-tier Tribunal.

Deputy Upper Tribunal Judge Bruce  
10<sup>th</sup> November

2014