



Upper Tribunal  
Immigration and Asylum Chamber

Appeal Number: EA/01873/2016

**THE IMMIGRATION ACTS**

Heard at Field House  
On 22 March 2018

Decision and Reasons Promulgated  
On 27 March 2018

Before

Upper Tribunal Judge Kekić

Between

Ahsan Rasul  
(anonymity order not made)

**Appellant**

and

Secretary of State for the Home Department

**Respondent**

**Representation**

For the Appellant: Mr A Maqsood, of Counsel, instructed by Lamptons Solicitors  
For the Respondent: Mr S Walker, Senior Home Office Presenting Officer

**Determination and Reasons**

**Details of appellant and basis of claim**

1. The First-tier Tribunal (Judge S J Clarke) found that the Tribunal had no jurisdiction to hear the appellant's appeal against the decision of the respondent to refuse him a residence card as an extended family member under the EEA Regulations. He applied the decision in Sala [2016] UKUT 411 (IAC) in support of his decision.

2. The appellant is a Pakistani national born on 6 July 1987 and his EEA sponsor is his father-in-law. Initially his application for permission to appeal against the Tribunal's decision was refused (on 12 December 2017 by First-tier Tribunal Judge Boyes) but on renewal it was granted by Upper Tribunal Judge Grubb on 22 January 2018. Judge Grubb found that following Khan [2017] EWCA Civ 1755, the First-tier Tribunal had been wrong in law to conclude that it had no jurisdiction. He proposed to set aside the decision and remit the appeal to the First-tier Tribunal unless either of the parties objected within 7 days of that decision.

### **Consideration**

3. The parties confirmed at the hearing before me that they had no objections to the course of action proposed by Upper Tribunal Judge Grubb. As no objections have been raised, I therefore proceed to set aside the determination of the First-tier Tribunal Judge and remit it back to another judge of that Tribunal for a fresh hearing and the re-making of the decision.

### **Decision**

4. The First-tier Tribunal made an error of law. The decision is set aside. The matter is remitted to the First-tier Tribunal for a hearing and for the decision to be re-made.

### **Anonymity Order**

5. I was not asked to make an order for anonymity and see no reason to do so in any event.

### **Directions**

6. All additional documentary evidence relied on by the parties must be filed and served no later than seven working days prior to the hearing.

**Signed:**



**Dr R Kekić  
Judge of the Upper Tribunal**

22 March 2018