



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

Appeal Numbers: EA/08045/2016
EA/08051/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 3rd April 2018**

**Decision & Reasons
Promulgated
On 17th April 2018**

Before

UPPER TRIBUNAL JUDGE MARTIN

Between

**MRS JASPREET KAUR
MR SARABJEET SINGH
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Rehmen (London Imperial Immigration Services)
For the Respondent: Mr T Melvin (Senior Home Office Presenting Officer)

DECISION AND REASONS

1. This is an appeal to the Upper Tribunal by the Appellants in relation to a decision of First-tier Tribunal Judge Griffith decided and promulgated on 25th August 2017 on the papers. The reason for that was because the Appellants had made applications for residence cards as extended family members of a cousin who was married to an EEA national exercising treaty rights in the UK.

2. At the time the Judge dealt with it the relevant case law was Sala (extended family members - right of appeal) [2016] UKUT 00411. That case was a case in the Upper Tribunal finding that extended family members did not have a right of appeal and on that basis the Judge dismissed the appeals for want of jurisdiction. However, we now have the case of Khan [2017] EWCA Civ 1755 by the Court of Appeal decided on 22nd August 2017. That case determined that Sala was wrongly decided and that extended family members do have a right to appeal.
3. Accordingly, through no fault of the First-tier Tribunal Judge who decided the case the jurisdiction point was wrong and therefore the First-tier Tribunal did have an appeal before it, it is only right that that appeal is determined in the First-tier Tribunal and for that reason the decision is set aside and remitted to the First-tier Tribunal for a full rehearing. It is not clear from the file whether an oral hearing was requested and paid for but no doubt that can be determined in the First-tier Tribunal.

Decision

The appeal to the Upper Tribunal is allowed to the extent that the First-tier Tribunal's decision is set aside and the matter remitted to the First-tier Tribunal for a full rehearing.

No anonymity direction is made.

Signed

Date 13th April 2018

Upper Tribunal Judge Martin