



IAC-AH-CO-V1

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

Appeal Numbers: EA/06338/2019  
EA/06340/2019; EA/06342/2019 (V)

**THE IMMIGRATION ACTS**

**Heard at Manchester CJC  
On 19 August 2021**

**Decision & Reasons Promulgated  
On 27 September 2021**

**Before**

**UPPER TRIBUNAL JUDGE PLIMMER**

**Between**

**MR MUHAMMAD RAZA  
MRS REHANA KUSAR  
MASTER MUHAMMAD IMRAN**

Appellants

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr Jaggar, Counsel

For the Respondent: Mr Tan, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellants have appealed against a decision of the First-tier Tribunal ('FTT') Judge Hatton, sent on 23 February 2021, dismissing their appeals on EEA grounds.
2. The first appellant is the husband of the second appellant. The third appellant is their child. The first appellant's sister is an EEA citizen living in the UK ('the sponsor').

3. At the beginning of the hearing Mr Tan properly accepted that the FTT erred in law and that I should remake the decision by allowing the appeals. I entirely agree with this approach for the reasons I provide below.
- (i) In order for the appellants to be extended family members ('EFM's) of the sponsor they need to establish the situation of dependence or membership of the same household must exist: a) in the country from which the family members concerned come i.e. Pakistan, as well as; b) in the host Member State - see the clear headnote in Dauhoo (EEA Regulations - reg 8(2)) [2012] UKUT 79 (IAC), Soares v SSHD [2013] EWCA Civ 575 (in which the Court of Appeal accepted the UT's application of Dauhoo at [19] and [21]) and Oboh v SSHD [2013] EWCA Civ 1525 at [46].
  - (ii) The FTT clearly resolved b) in the appellants' favour, concluding unambiguously that it entirely accepted the evidence adduced in support of the appellants' contention that they have been dependent upon the sponsor since August 2014 and this continues.
  - (iii) The FTT acknowledged the first appellant's clear assertion in his witness statement that the appellants were members of the sponsor's household when she was in Pakistan but noted an absence of documentary evidence in support. The FTT found that there was insufficient evidence to support a) and therefore dismissed the appeal.
  - (iv) It is very difficult to see why the FTT felt unable to accept the clear evidence in the witness statement to the effect that the parties lived in the same household as the sponsor and were dependent upon her in Pakistan, particularly when this was not a matter that the respondent raised as a concern within the decision under appeal. It follows that the FTT's reasoning on issue a) is inadequate.
  - (v) I can remake the decision myself. Given the positive findings of fact made by the FTT regarding the claimed lengthy history of dependency, I entirely accept the appellants' evidence that they were members of the sponsor's household and dependent upon her when she was in Pakistan. Mr Tan was correct to make a concession to that effect.
4. It follows that I accept that the appellants have established past dependency in Pakistan and continuing dependency upon the sponsor.

### **Notice of decision**

5. The decision of the FTT contains a material error of law and is set aside. I remake the decision by allowing the appellants' appeals.

Signed: *UTJ Plimmer*

Date: 19 August 2021

Upper Tribunal Judge Plimmer