



**UPPER TIER TRIBUNAL
(IMMIGRATION AND ASYLUM CHAMBER)**

APPEAL NUMBER: EA/06611/2016

THE IMMIGRATION ACTS

**Heard at: Field House
On 22 February 2018**

**Decision and Reasons Promulgated
On 16 March 2018**

Before

Deputy Upper Tribunal Judge Mailer

Between

**MR AKTHERUZZAMAN SONI
ANONYMITY DIRECTION NOT MADE**

Appellant

and

ENTRY CLEARANCE OFFICER

Respondent

Representation:

For the Appellant: No appearance

For the Respondent: Mr I Jarvis, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a national of Bangladesh born on 29 May 1984. He appeals with permission against the decision of the First-tier Tribunal Judge who, in a decision promulgated on 15 June 2017 dismissed his appeal against the respondent's decision to refuse to grant him an EEA residence card as an extended family member.

2. In dismissing his appeal, the First-tier Tribunal Judge found that the Tribunal did not have jurisdiction following the decision of the Upper Tribunal in Sala (EFMs: Right of Appeal) [2016] UKUT 010411 (IAC). The Tribunal found that there was no statutory right of appeal against the decision of the respondent not to grant a residence card to a person claiming to be an extended family member.
3. Mr Jarvis acknowledged that in the light of the recent decisions of the Court of Appeal and the Supreme Court, that the Tribunal did have jurisdiction to hear such appeals, the decision of the First-tier Judge should be set aside.
4. In the circumstances he accepted that the appeal would have to be remitted to the First-tier Tribunal for a fresh decision to be made.
5. I am satisfied that the extent of judicial fact finding which will be necessary for a decision to be re-made is extensive. I have had regard to the overriding objective and conclude that it would be just and fair to remit the case.

Notice of decision

The decision of the First-tier Tribunal involved the making of an error on a point of law and is set aside.

The case is remitted to the First-tier Tribunal (Bradford) for a fresh decision to be made.

No anonymity direction is made.

Signed

Date 15 March 2018

Deputy Upper Tribunal Judge Mailer