



IAC-FH-AR-V3

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

Appeal Number: VA/06823/2014

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 24 February 2016**

**Decision & Reasons  
Promulgated  
On 12 May 2016**

**Before**

**UPPER TRIBUNAL JUDGE ALLEN**

**Between**

**MUHAMMAD ANWER  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**ENTRY CLEARANCE OFFICER - ABU DHABI**

Respondent

**Representation:**

For the Appellant: No appearance by or on behalf of the Appellant  
For the Respondent: Mr C Avery, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant applied for entry clearance as a family visitor to visit his brother Muhammad Ali the sponsor for a period of three weeks. The application was refused by the Entry Clearance Officer on 12 March 2014 on the basis that he was not satisfied that the appellant met the

requirements of paragraph 41 of HC 395, in particular with respect to the fact that the bank statement provided did not reflect his claimed income, that he had said the sponsor would accommodate him but the sponsorship declaration did not show that the sponsor had agreed to sponsor the trip or had the means to do so and also the appellant had not provided details of the current whereabouts or circumstances of his wife and child.

2. The judge noted that the case was limited to race relations and human rights grounds. She considered the evidence and concluded that the appellant had not shown that his circumstances in Pakistan were as claimed and that he had not addressed the concerns raised by the Entry Clearance Officer. She noted what had been said in Abbasi [2015] UKUT 00463 (IAC) in relation to the fact that the appellant had submitted a request to have his appeal expedited as his brother in the United Kingdom had died after the appeal was lodged and he wished to enter the United Kingdom to participate in death prayers and share the grief of the family in the United Kingdom. It had been held in Abbasi that refusal of a visa to a foreign national seeking to enter the United Kingdom for a finite period for the purpose of mourning with family members the recent death of a close relative and visiting the grave of the deceased was capable of constituting a disproportionate interference with the rights of the persons concerned under Article 8 of the European Convention on Human Rights.
3. The judge examined the evidence in this regard. She noted that the copy death certificate submitted was of very poor quality and appeared to state the name of the deceased as Ihsan Ahmad Muneeb. There was no evidence as to the claimed relationship or as to Mr Muneeb's status in the United Kingdom. In his application form the appellant had been asked for details of his family in the United Kingdom and gave details of the sponsor and another relative, Bushra Ali and did not mention Ihsan Ahmad Muneeb. There was no explanation as to why this brother was not mentioned. She went on to say that unlike the situation in Abbasi the appellant had not applied to come to the United Kingdom to visit his ill brother or come to the United Kingdom for death prayers. There was no evidence as to the funeral or burial arrangements in the United Kingdom if they had taken place or were taking place in the United Kingdom at all. She concluded that there was insufficient evidence before her to establish the relationship between the appellant and the deceased or as to the arrangements in the United Kingdom for mourning and burial. She acknowledged that this was capable of amounting to a breach of private and family life but did not accept that in this case the claimed death of the appellant's brother in the United Kingdom amounted to a breach of his private and family life. She went on to note that the original application was to visit the sponsor whom the appellant had visited previously but there was nothing to indicate that the relationship went beyond that normally found between adult siblings nor that there was any evidence to show why the sponsor could not travel to Pakistan to maintain the relationship or why the appellant and the sponsor could not meet elsewhere. The Article 8 claim was dismissed.

4. The appellant sought permission to appeal on the basis among other things that he had said in his grounds of appeal that he had applied as a family visitor for three weeks for compassionate reasons and on the humanitarian basis that his brother was seriously injured, and attached the concerned evidence. The compassionate circumstances of the appeal had been acknowledged in the Entry Clearance Manager's review noting the fact of the accident and an update in which it had been said that unfortunately the appellant's brother had passed away. The Entry Clearance Manager had considered the compassionate circumstances of the appeal in that he wished to visit his brother but now wished to take part in the prayers for him but was not satisfied that these circumstances outweighed the concerns over the appellant's personal circumstances in Pakistan.
5. Permission to appeal was granted by a Judge of the First-tier Tribunal on the basis that the relationship had been conceded in the Entry Clearance Manager's review contrary to the judge's finding that the appellant had not shown that he had family in the United Kingdom.
6. There was no appearance by or on behalf of the appellant at the hearing before me. I was satisfied that notice of the date, time and place of hearing had been communicated to the appellant.
7. Mr Avery argued that there was no error of law in the judge's decision, and that the Entry Clearance Manager had not conceded anything but simply made a comment about the update that had been received.
8. I agree with the submission made by Mr Avery. There is no concession to be found in the Entry Clearance Manager's letter but simply a noting of the fact that the appellant's brother had unfortunately died subsequent to being in an electrical explosion at work in which he suffered burns to his body. It seems that the issue of the appellant's brother was raised initially in his grounds of appeal. As the judge noted, it was not referred to in the initial application. The judge's concerns expressed at paragraph 13 of her determination were open to her. The appellant had not given details of Ihsan Ahmad Muneeb in his application. There was no evidence as to the claimed relationship nor as to Ihsan Ahmad Muneeb's status in the United Kingdom. There was no explanation as to why this brother was not mentioned on the application form when the appellant was asked for details of his family and gave details of the sponsor and another relative, Bushra Ali. In the circumstances, and bearing in mind the point noted by the Entry Clearance Manager about the death, I consider that it was properly open to the judge to find that there was insufficient evidence to establish the relationship between the appellant and the deceased or as to the arrangements in the United Kingdom for mourning and burial. I do not consider that the Entry Clearance Manager can be seen as having made a concession of any kind in considering an assertion that was made in the grounds of appeal. If the dates are as claimed by the appellant then of course no issue would have arisen as to visiting an unwell or injured

brother at the time when the application was made as far as one can tell from the dates, but nevertheless in particular the absence of any mention of this relative on the application form and the vagueness as to the details about Mr Muneeb are such as amply to justify the judge's conclusions in this case. Accordingly I find there is no error of law in her determination and her decision dismissing the appeal stands.

No anonymity direction is made.

Signed

Date

Upper Tribunal Judge Allen