



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

Appeal Number: EA/02377/2015

**THE IMMIGRATION ACTS**

**Field House**

**Decision & Reasons  
Promulgated  
On 15<sup>th</sup> March 2018**

**Before**

**UPPER TRIBUNAL JUDGE KOPIECZEK**

**Between**

**SHEHZAD ARSHAD**

Appellant

**and**

**ENTRY CLEARANCE OFFICER**

Respondent

**DECISION**

1. In her decision granting permission to appeal, in the light of the decision in *Khan v Secretary of State for the Home Department* [2017] EWCA Civ 175 Upper Tribunal Judge Kebede stated that she was minded to extend time for applying for permission to appeal, to find an error of law in the decision of the First-tier Tribunal and remit the appeal to the First-tier Tribunal.
2. Neither party has dissented from those proposals within the 7 day time period given by Judge Kebede and on behalf of the appellant there is positive assent to them.
3. Accordingly, it being agreed that there is an error of law in the decision of the First-tier Tribunal, the decision of the First-tier Tribunal is set aside and

the appeal is remitted to the First-tier Tribunal for a hearing *de novo* before a judge other than First-tier Tribunal Judge Kelly.

4. However, it appears to me that Judge Kelly's decision gives an incorrect date of decision and refers to the respondent as the Secretary of State. In fact, it appears that the decision is a refusal of entry clearance dated 18 September 2015. However, that does not affect the error of law, set aside and remittal.
5. In so far as human rights issues are relevant, it further appears to me that Judge Kelly was correct in what he said about *Amirteymour* although the operative decision is now that of the Court of Appeal in *Amirteymour v The Secretary of State for the Home Department* [2017] EWCA Civ 353.

Upper Tribunal Judge Kopieczek

13/03/18