



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: EA/06669/2016

**THE IMMIGRATION ACTS**

Heard at Field House  
On 22 February 2018

Decision & Reasons Promulgated  
On 26 February 2018

Before

**UPPER TRIBUNAL JUDGE GLEESON**

Between

**SHEIKH MOHAMMED MONIR SHEIKH  
[NO ANONYMITY ORDER]**

Appellant

and

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

Respondent

Representation:

For the appellant: Mr Erum Wahid, Counsel instructed by Universal Solicitors

For the respondent: Ms Alex Everett, a Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant appeals with permission against the decision of the First-tier Tribunal dismissing his appeal against refusal of an EEA extended family member residence card, for lack of jurisdiction. The appellant is a citizen of Bangladesh.
2. The decision of the First-tier Tribunal was based on the Upper Tribunal's decision in *Sala* (EFMs: Right of Appeal : Albania) [2016] UKUT 411 (IAC) that there was no

right of appeal to the First-tier Tribunal for extended family members under the Immigration (European Economic Area) Regulations 2006 (as amended).

3. The Court of Appeal in *Khan v Secretary of State for the Home Department & Anor* [2017] EWCA Civ 1755 held that the Upper Tribunal erred in so finding and that an extended family member has a right of appeal. The Supreme Court in *SM (Algeria) v Entry Clearance Officer, UK Visa Section* [2018] UKSC 9 at [37]-[38] approved that interpretation.
4. It follows that the decision in this appeal must be set aside and the appellant should have the benefit of a full First-tier Tribunal hearing on the merits. A Bengali interpreter will be required.

## DECISION

5. For the foregoing reasons, my decision is as follows:

The making of the previous decision involved the making of an error on a point of law.

I set aside the previous decision. The decision in this appeal will be remade in the First-tier Tribunal on a date to be fixed.

Date: 22 February 2018

Signed

*Judith AJC Gleeson*

Upper Tribunal Judge Gleeson