



**Upper Tribunal  
(Immigration and Asylum Chamber)  
EA/06215/2016**

**Appeal Numbers:**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 12 February 2018**

**Decision and Reasons  
Promulgated  
On 15 February 2018**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE MANUELL**

**Between**

**Mr BALJIT SINGH  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: No appearance

For the Respondent: Mr L Tarlow, Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The Appellant appealed with permission granted by First-tier Tribunal Ford on 29 November 2017 against the determination of First-tier Tribunal Judge I M Scott who had dismissed the appeal of the Appellant seeking entry clearance as the Extended Family Member of an EEA national under regulation 8 of the EEA regulations 2006, as

the dependant of his uncle, an Italian citizen. The decision and reasons was promulgated on 24 July 2017.

2. The Appellant is a national of India, born on 12 May 1984. Judge Scott applied Sala [2016] UKUT 411 (IAC) as he was bound to do and found that the appeal had to be dismissed for want of jurisdiction.
3. Permission to appeal was granted in the First-tier Tribunal in the light of Khan [2017] EWCA Civ 1755 where it was held that Sala was wrongly decided.
4. On 22 January 2018 the Appellant's representative wrote to the Upper Tribunal indicating that the appeal should be decided in the Appellant's absence.
5. At the hearing Mr Tarlow for the Respondent was obliged to concede the appeal. As there had been no hearing, the decision and reasons should set aside and returned to the First-tier Tribunal for hearing.
6. In the light of the concession, the tribunal accordingly finds that there was the material error of law identified by Judge Ford. The onwards appeal is allowed. The original decision and reasons is set aside and and returned to the First-tier Tribunal for hearing.

## **DECISION**

The appeal is allowed

The making of the previous decision involved the making of a material error on a point of law. The decision is set aside and returned to the First-tier Tribunal for hearing, by any judge except Judge I M Scott.

**Signed**  
2018

**Dated** 12 February

**Deputy Upper Tribunal Judge Manuell**