



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

**Case No: UI-2022-003052**  
**First-tier Tribunal No:**  
**EA/06701/2021**

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On the 01 September 2023**

**Before**

**UPPER TRIBUNAL JUDGE PERKINS**

**Between**

**SAIF ULLAH**  
**(NO ANONYMITY ORDER MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr Z Iqbal, Solicitor, instructed by Greystone Solicitors  
For the Respondent: Mr S Walker, Senior Home Office Presenting Officer

**Heard at Field House on 9 February 2023**

**DECISION AND REASONS**

(extempore)

1. This is an appeal against a decision of the First-tier Tribunal dismissing the appellant's appeal against a decision of the Secretary of State refusing admission to the United Kingdom as a family member of a European Economic Area national exercising treaty rights. The Entry Clearance Officer's decision was dated 17 March 2021 and the main concern was that there was inadequate evidence of dependency.
2. There were essentially two elements in the appellant's case. The first is that he was sent money from the EEA national resident in the United Kingdom, and the second was that he really needed that money because he had been injured, having broken his leg, and that left him at a very severe disadvantage on the labour market. The First-tier Tribunal Judge was very dissatisfied with the quality of the medical evidence supporting the claim that the appellant had broken his leg and essentially disregarded the medical report.

3. However, the judge used that adverse finding as a reason essentially to reject all the other evidence. The judge said at paragraph 27:  
“As the appellant has produced a document to the Tribunal which is unreliable, I will give both his evidence and that of the sponsor no weight. I will also place no weight on the other evidence the appellant relies upon such as the letter from Mudassar Sadique Advocate and Mr Mehdi Khan Headman.”
4. The main point taken in the grounds of appeal is this reflected a wrong approach. The judge should have evaluated the evidence in the round and should not have used the unsatisfactory medical evidence as a reason to discredit the other evidence without giving some explanation. Before me Mr Walker’s hands were tied by a Rule 24 notice from the Secretary of State, not written by Mr Walker, in which it was accepted that this is a material error of law and suggested that the case be reheard. Before me Mr Iqbal for the appellant indicated that he was not ready to go ahead today partly because he wished to serve further evidence which may or may not be admitted according to the judge hearing the case.
5. In the circumstances I find it appropriate and the parties agree that the case is remitted to the First-tier Tribunal to be re-determined.

**Notice of Decision**

6. It follows that I find the First-tier Tribunal erred in law, I set aside its decision and I direct that the case be reheard in the First-tier Tribunal.

**Jonathan Perkins**  
Judge of the Upper Tribunal  
Immigration and Asylum Chamber  
**29 August 2023**