



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

Appeal Number: IA/34021/2015

THE IMMIGRATION ACTS

**Heard at Birmingham
On 6th September 2017**

**Decision & Reasons Promulgated
On 12th September 2017**

Before

UPPER TRIBUNAL JUDGE COKER

Between

ROBIN SINGH

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr R Martin, instructed by Asher and Tomar solicitors
For the Respondent: Mr A McVeety, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, an Indian national, sought and was granted permission to appeal against a decision of the First-tier Tribunal promulgated on 12th December 2016 which dismissed his human rights claim appeal.
2. The decision by the First-tier Tribunal judge First-tier Tribunal failed to apply the law correctly, imported incorrect tests of the evidence in reaching his conclusions, reached some findings that were not supported by evidence and

failed to make findings on other elements of the evidence. Both parties were agreed the decision could not stand.

3. I am satisfied the decision of the First-tier Tribunal is infected with significant material errors of law and I set it aside to be remade in full with no findings preserved.
4. The effect of the First-tier Tribunal decision is that there has been no effective hearing of the substance of the appeal and no sustainable findings of any kind. The scheme of the Tribunals Court and Enforcement Act 2007 does not assign the function of primary fact finding to the Upper Tribunal.
5. When I have set aside a decision of the First-tier Tribunal, s.12(2) of the TCEA 2007 requires me to remit the case to the First-tier with directions or remake it for ourselves. Where there has been no substantive hearing before the First tier and the facts are disputed or unclear I conclude that the decision should be remitted to a First-tier Tribunal judge to determine the appeal.

Conclusions:

The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.

I set aside the decision and remit the appeal to the First-tier Tribunal for re-hearing.



Date 6th September 2017

Upper Tribunal Judge Coker