



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/07576/2018

**THE IMMIGRATION ACTS**

Heard at Field House  
On 13 September 2019

Decision & Reasons Promulgated  
On 23 September 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE APPEYARD

Between

MR D S  
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Ms C Bexson, Counsel.  
For the Respondent: Ms A Fijiwala, Home Office Presenting Officer.

**DECISION AND REASONS**

1. The Appellant is a citizen of Sri Lanka. He made an application for international protection which was refused. He appealed, and following a hearing, and in a decision promulgated on 5 June 2019, Judge of the First-Tier Tribunal Hamilton dismissed the Appellant's appeal.

2. The Appellant sought permission to appeal which was initially refused in the First-Tier Tribunal. However, a renewed appeal to the Upper Tribunal was granted on 6 August 2019 by Judge of the Upper Tribunal Grubb. His reasons for so granting were: -

*"1. The First-tier Tribunal (Judge J C Hamilton) dismissed the appellant's appeal against a decision to refuse his international protection, humanitarian protection and human rights claim.*

*2. It is arguable, on the basis of the grounds, that the judge failed properly to consider the medical evidence and also, in doing so, failed to engage with the appellant's evidence itself.*

*3. For these reasons, permission to appeal is granted."*

3. Thus, the appeal came before me today.
4. At the outset of today's hearing Ms Fijiwala accepted that Judge J C Hamilton materially erred for the reasons set out in the grounds and identified in the above-mentioned grant of permission to appeal dated 6 August 2019.
5. On my own analysis of the documentation within this appeal I find likewise and that the Judge has materially erred.
6. Ms Bexson, in light of the Respondent's concession invited me to remit the appeal for a de novo hearing. That is the proper course here.

### **Notice of Decision**

The making of the decision of the First-tier Tribunal involved the making of an error on a point of law. The decision is set aside. The appeal is remitted to the First-tier Tribunal to be dealt with afresh pursuant to Section 12(2)(b)(i) of the Tribunals, Courts and Enforcement Act 2007 and Practice Direction 7(b) before any Judge aside from Judge J C Hamilton.

### **Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date: 19 September 2019

Deputy Upper Tribunal Judge Appleyard