

# The Court of Appeal decision in R (Peiris) v First-tier Tribunal, CICA & Secretary of State for Justice [2023] EWCA Civ 1527

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## Background

Thavisha Peiris was a Sri Lankan national living in the UK who was tragically murdered in Sheffield in October 2013. His Father, Mr Peiris, applied to the Criminal Injuries Compensation Authority (“CICA”) for a bereavement payment under paragraphs 61 and 62 of the Criminal Injuries Compensation Scheme 2012 (“the Scheme”).

CICA refused to make a bereavement payment because Mr Peiris did not satisfy the eligibility criteria for such awards under paragraphs 10 and 11 of the Scheme. Those paragraphs provide that a person is eligible for an award under the Scheme only if he was ordinarily resident in the UK on the date of the incident giving rise to the criminal injury, or if he was a British national, or a national of a state to which the UK owed obligations under international or European Union law, or a member of the armed forces. As Mr Peiris was not ordinarily resident in the UK, and did not meet any of the other conditions, CICA refused to make a bereavement payment.

## The Appeal

Mr Peiris appealed to the First-tier Tribunal. The First-tier Tribunal dismissed the appeal. The Appellant sought judicial review of that decision. He argued that the refusal of the bereavement payment amounted to unlawful discrimination contrary to Article 14, read with Article 1 of the First Protocol, of the Convention for the Protection of Human Rights and Fundamental Freedoms. The Upper Tribunal dismissed the claim. The Upper Tribunal accepted that the appellant was in a materially analogous situation with parents of a deceased victim of violence who were ordinarily resident in the UK or were British nationals, and that he was subjected to differential treatment on the grounds of status, namely nationality and/or residence. The Upper Tribunal held, however, that the differential treatment was objectively justified. In particular, it

considered that a residence requirement was proportionate, as was the extension of the Scheme to citizens of the UK and members of the armed forces for whom the UK was responsible, and to nationals of states to whom the UK owed obligations under international or European Union law.

## Conclusion

The Appellant appealed against the finding that the differential treatment was objectively justified. The Court of Appeal dismissed the appeal, and held that the differential treatment arising from the eligibility criteria for a bereavement payment under the Scheme was objectively justified. The criteria served a legitimate aim, namely the provision of a system of compensation for victims of crime of violence, which was sustainable. There was a reasonable relationship of proportionality between the aim and the method sought to achieve that aim, namely requiring that an applicant for compensation demonstrate a connection with the UK by ordinary residence or British nationality.

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