

TITLE OF DECISION: *Singh v Minister of Immigration* [2016] NZIPT 600228

INDEX TERMS:

Resident / conviction / India / driving with excess blood alcohol and rape (six years, one month's imprisonment) / also convicted for passport offending (cumulative eight months' imprisonment) / submission that Court did not have power to impose imprisonment for three months or more in relation to drink driving offence, not accepted / in NZ 9 years / Tribunal accepts offending occurred in context of alcohol dependency / appellant disowned by parents, compromising ability to return to his community in India / however, can establish himself elsewhere in India / NZ citizen wife presents regularly to doctor with multiple health conditions, including depression and anxiety / as result of health conditions, wife having difficulties caring for couple's NZ-citizen son / wife's family have practical constraints on level of support they can offer / wife cannot reasonably be expected to live in India in light of health condition, lack of familiarity with India, and dependence on NZ-based support networks / appellant forms important part of wife's medium-term support and brings level of stability to family household / best interests of the child / child's best interests served by remaining in NZ in the care of both his parents / **exceptional humanitarian circumstances found** / rape conviction at lower end of spectrum of inherently serious offending / while serious, appellant's passport offending not at upper level of seriousness / multiple traffic convictions / weighing offending against needs of appellant's emotionally vulnerable NZ-citizen wife and son, Tribunal finds it **unjust or unduly harsh** for appellant to be deported / public interest / public interest in preserving family unity / low to medium risk of re-offending / appellant continues to receive treatment in prison for factors contributing to offending / suspension of deportation liability provides incentive to avoid re-offending / **not contrary to public interest** / liability for deportation suspended – condition that appellant incur no conviction punishable by term of imprisonment in next five years / appeal allowed

COUNTRY:

India

DATE OF DECISION:

29 September 2016

DECISION MAKER:

Martin, M

JUDICIAL BODY:

Immigration And Protection Tribunal

STATUTE:

Immigration Act 2009

DEPORTATION APPEAL TYPE:

Resident (conviction)

OUTCOME:

Allowed