

APPEAL NO. 92170

On February 10, 1992, a contested case hearing was convened in (city), Texas, by (hearing officer), hearing officer. Appellant (claimant below), who initially appeared pro se, requested a continuance because the hearing notice had been sent to her daughter and had only recently been provided to her. The continuance was granted and the hearing was reconvened on March 30, 1992, at which time appellant was represented by counsel. The parties stipulated that on (date of injury), appellant's husband, (Decedent), an employee of respondent, suffered a myocardial infarction. The sole disputed issue was whether or not his myocardial infarction was compensable pursuant to the provisions of the Texas Workers' Compensation Act, TEX. REV. CIV. STAT. ANN. art. 8308-4.15 (Vernon Supp. 1992) (1989 Act). The hearing officer determined that Decedent's heart attack was not compensable and appellant requests our review challenging the sufficiency of the evidence to support certain factual findings and legal conclusions reached by the hearing officer.

DECISION

Finding sufficient evidence to support the challenged findings and conclusions, we affirm the decision of the hearing officer.

On (date of injury), Decedent and two other employees of (city) County, Texas (Employer), lifted a tire for a front-end loader approximately one foot off the ground to place it upon the wheel. The tire weighed over 100 pounds. Just after the tire was slipped onto the lug bolts Decedent grabbed his chest and walked away. At about that time an official of Employer drove up and transported Decedent to the (Hospital) emergency room where he was examined and treated for complaints of chest pain. Decedent was then 52 years of age and had worked for Employer for 16 years. According to the history and physical exam record dictated by (Dr. O), III, M.D., who examined and treated Decedent in the emergency room, Decedent advised that his dull chest pain involved his left arm somewhat and had been constant for about one hour even after taking several nitroglycerine tablets. "Past medical history is positive for an MI [myocardial infarction] back in 1988. At that point in time the MI was associated with severe hypertension. He had decreased LV [left ventricle] function, evidence of localized infarction but normal coronary arteries." This history described the medications prescribed for Decedent after the 1988 episode, including Cardizem and Nitroglycerine, and then stated that "[h]e has done well for the last 2 1/2 years but has not followed up with any appointments" This record also stated that Decedent had "had a vasospastic MI previously."

Decedent was transferred that same day to (Hospital) for further evaluation and care. According to records prepared by (Dr. G), M.D., a cardiologist, his "impression" of Decedent's condition was "myocardial injury." He described Decedent as having a history of significant hypertension and as a "long-standing hypertensive with previous history of ischemic heart disease with myocardial infarction in 1988 followed by cardiac catheterization which apparently revealed fairly patent coronary arteries and the MI could have been on the basis of thrombus at the site of a plaque with a spontaneous resolution or based on

persistent vasospasm resulting in myocardial infarction." (Dr. G's) report also stated that "[h]is past history is significant for long-standing hypertension and ischemic heart disease, possibly on the basis of vasospasm as mentioned above." (Dr. G's) plan was to perform a cardiac catheterization to determine whether Decedent's problem involved a thrombus or vasospasm. Decedent's condition deteriorated and on May 27, 1991, emergency three-graft coronary artery bypass surgery was performed. Decedent's condition continued to deteriorate and he died on June 12, 1991. According to his death certificate, Decedent's immediate cause of death was "Cardio Respiratory Arrest" (in minutes) due to "acute myocardial infarction (for days) which, in turn, was due to "atherosclerotic vascular disease" (for years).

Records from (Hospital) revealed that Decedent was admitted on October 13, 1988, for chest pain. According to the report of (Dr. B), M.D., Decedent presented with a blood pressure of 200/130 and the admitting diagnosis was "rule out MI." He underwent a heart catheterization and various other arterial studies and according to (Dr. B's) report his "right and left heart hemodynamics suggest significant diastolic noncompliance secondary to significant and severe hypertensive cardiovascular disease." Decedent was discharged on October 20, 1988. The "Discharge Diagnosis" section of the Discharge Summary was not completed. Appellant testified that Decedent had been told by (Dr. B) that he had not had a heart attack. Included in the hospital records, however, was a form which stated the "final diagnosis" as "acute anteropical inferior myocardial infarction [and] uncontrolled hypertension." (Dr. B's) signature was at the bottom of this form.

Appellant's only documentary evidence was a letter from (Dr. O), M.D., dated June 14, 1991, which stated that Decedent had a myocardial infarction on (date of injury), had a previous MI in 1988 and has underlying hypertension. The letter goes on to state: "I do not have information as to exactly what he was doing as far as work at the time of his heart attack but certainly his activity could have contributed to this heart attack."

Respondent introduced a letter from (Dr. V), M.D., dated October 2, 1991, which stated in part as follows:

"[t]he claim is being reviewed to try to determine whether or nor the heart attack that [Decedent] sustained was related to a possible work injury or whether it was related to underlying medical conditions.

...

The records submitted from the emergency room and subsequently from the hospital where he was transferred do not mention any specific work-related preceding activities that seem to be related to the chest pain. However, a question was raised on the review as to whether or not lifting 150 pounds could have caused his heart attack. As mentioned, there is nothing in the records that this reviewer sees about lifting 150 pounds, but in any event, if this were the case, the actual cause for the heart attack would still be related to his underlying

heart condition. He had hypertension and hypercholesterolemia, which are predisposing factors for heart disease. The actual cause of death was related to the development of shock, sepsis, and disseminated intravascular coagulation. These are all complications which occurred sometime after his initial presentation, and he had a somewhat prolonged course with multiple complications resulting in his death.

By way of summary, it appears from the records that this gentleman's heart disease was the cause for his heart attack in that there is not anything in the records to suggest that this was a work-related condition."

(Mr. W), who worked with Decedent on the morning of (date of injury), testified that he, Decedent, and another employee all did the lifting of the tire about one foot off the ground and onto the wheel of the loader. He said that he had worked with Decedent for two or three months, and that the latter appeared healthy, was able to do heavy work, and didn't complain of heart problems. Appellant testified that after Decedent was discharged from the hospital in October 1988, (Dr. B) told Decedent he had not had a heart attack or a stroke and placed no restrictions on Decedent's work activities. She also stated that Decedent made no chest complaints after his October 1988 hospitalization and never missed work for health reasons. She conceded Decedent took medications for his chest and for high blood pressure, however.

Appellant disputes the hearing officer's decision that Decedent's heart attack and subsequent death are not compensable under Article 8308-4.15 and challenges the sufficiency of the evidence to support the following factual findings and legal conclusions:

FINDINGS OF FACT

- 7.(decedent) suffered a vasospastic myocardial infarction associated with severe hypertension in October, 1988.
- 8.(decedent) had a history of severe hypertensive vascular disease.
- 9.The preponderance of the medical evidence regarding (decedent's) (date of injury) heart attack indicates that the natural progression of his preexisting heart condition was a substantial contributing factor of the attack.
- 10.The preponderance of the medical evidence regarding (decedent's) (date of injury) heart attack does not indicate that his work was a substantial contributing factor of the attack.

CONCLUSIONS OF LAW

- 4.(decedent's) heart attack on (date of injury) is not a compensable injury under Article 8308-4.15 of the Texas Workers' Compensation Act.

5.(city) County is not liable for workers' compensation benefits.

To be compensable under Article 8308-4.15, a heart attack must be shown, *inter alia*, to have been "caused by a specific event occurring in the course and scope of employment," and, the preponderance of the medical evidence regarding the attack must indicate "that the employee's work rather than the natural progression of a preexisting heart condition or disease was a substantial contributing factor of the attack." The evidence in this case was clearly insufficient to meet these statutory requirements. The evidence showed that Decedent stopped work, grabbed his chest, and went to the hospital immediately after assisting in the lifting of a heavy tire. However, the medical records were silent with respect to any work-related event being associated with or causative of Decedent's unfortunate heart attack. (Dr. O's) letter stated only that while he didn't have information as to exactly what it was Decedent was doing at work at the time of his heart attack "certainly his activity could have contributed to this heart attack." (Emphasis supplied.) There was no preponderance of the medical evidence that his work "rather than the natural progression of [his] preexisting heart condition or disease" was a substantial contributing factor. We have determined in other decisions that the evidence fell short, as it does in this case, of meeting the requirements of the 1989 Act for a compensable heart attack. See, e.g., Texas Workers' Compensation Commission Appeal No. 91009 (Docket No. AM-00005-91-CC-1) decided September 4, 1991; Texas Workers' Compensation Commission Appeal No. 91031 (Docket No. AB-00002-91-CC-1) decided October 24, 1991; Texas Workers' Compensation Commission Appeal No. 91044 (Docket No. WA-00002-91-CC-1) decided November 14, 1991; and, Texas Workers' Compensation Commission Appeal No. 91061 (Docket No. LB/A097389/01-CC-LB41) decided December 9, 1991.

We note that the parties stipulated that Decedent suffered a "myocardial infarction" on (date of injury). The medical records of Decedent's hospitalization in May and June 1991 referred to his diagnoses as including an "acute anteroseptal myocardial infarction." The report of (Dr. V), who reviewed those records, used the term "heart attack," as does the letter from (Dr. O). The hearing officer, after finding that Decedent's chest pains progressed to a "myocardial infarction," refers in subsequent findings to his "heart attack." In Texas Workers' Compensation Appeal No. 91031, *supra*, where the doctor's reports used the terms "sudden cardiac arrhythmia" and "sudden cardiac death syndrome," we determined that the absence of the nonmedical term "heart attack" was of no great significance in disposing of the case and concluded that "the deceased died directly as a result of a condition that was cardiac in nature and within the broader, non-medical definition of 'heart attack'."

We find the evidence sufficient to support the challenged findings, conclusions, and decision of the hearing officer. The findings are not so against the great weight and preponderance of the evidence as to be manifestly unjust. *In re King's Estate*, 150 Tex. 662, 244 S.W.2d 660 (1951); *Pool v. Ford Motor Co.*, 715 S.W.2d 629, 635 (Tex. 1986).

The decision of the hearing officer is affirmed.

Philip F. O'Neill
Appeals Judge

CONCUR:

Stark O. Sanders, Jr.
Chief Appeals Judge

Susan M. Kelley
Appeals Judge