

APPEAL NO. 990906

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on March 11, 1999. The issues at the CCH were whether the respondent's (claimant) compensable injury of \_\_\_\_\_, extended to and included his right knee injury and the resulting surgery, and whether the appellant (carrier) timely controverted the right knee injury. The hearing officer found that the carrier timely controverted the right knee injury and that issue is not on appeal. The hearing officer also found that the compensable injury of \_\_\_\_\_, extended to the right knee injury and resulting surgery but that the replacement of the prosthetic device was necessitated by normal wear and tear and, thus, the carrier was not liable for the actual costs of the replacement prosthetic device. The carrier appeals several findings of fact and conclusions of law asserting there is insufficient evidence to support them and urges that the determination that the \_\_\_\_\_, injury extended to the knee and that it was liable for the injury and surgery be reversed. No response has been filed.

DECISION

Affirmed.

The claimant had right knee replacement surgery in 1990 and returned to work. He testified that he had not had any problems with his right knee for several years prior to \_\_\_\_\_. On that date, while at work, he tripped up some stairs in a dark warehouse and fell face forward on his arms and knees "kind of flat down." He testified that he reported to his supervisor that his ankle was primarily bothering him, and that swelling and pain in the right knee showed up a day or two later. He was sent to a doctor and a report of initial visit dated \_\_\_\_\_, shows complaints regarding the right ankle, left arm, left shoulder, and right knee. The notes of the examination describe knee as being sore from twisting, and lists a diagnosis of sprain, right knee "unknown if there is any loosening of joint prosthesis." Regarding his knee, the claimant subsequently saw Dr. C, who notes in January 1998 that x-rays show "a narrowing of the joint space on the right knee particularly on the medial aspect compared to the lateral" and that he suspected a fractured polyethylene (prosthesis) of the right knee. Surgery was ultimately performed on the right knee with the prosthesis being replaced, as it turned out, because of significant normal wear and tear and without any indication of a fracture or traumatic damage to the prosthesis. In a report to the carrier dated July 23, 1998, Dr. C states:

At the time of surgery, there was a large effusion within the knee. As you will note from the operative report, the hypertrophic synovia tissue including scar tissue was excised from the inner aspect of the knee and the entire joint was inspected. The medial portion of the tibial polyethylene tray was extremely worn to a point of being on the verge of complete breakage.

The medical records were reviewed for the carrier by Dr. P, who opined in an August 5, 1998, letter that "the surgical needs of the polyethylene replacement should be attributed to normal wear and tear phenomenon and not related to the traumatic event itself." However, he states it was still his opinion "that the old records need to be reviewed to see if indeed this patient was having any problems with his knee in the immediate pre-injury period" and that "[i]f indeed there is no documentation that this patient was being seen, then I would need to reconsider my stance." Dr. P also stated that, if, after a review of the postoperative report, the patient was not having any problems prior to this injury and his symptoms were completely eliminated following the replacement, "I think we would have to look at the surgery as appropriate and related to the actual injury."

As indicated, the carrier essentially urges that the evidence shows the claimant's knee problems were only a matter of normal wear and tear of the prosthetic device and that there was no causal relation to the incident of \_\_\_\_\_, and no compensable knee injury. It is apparent that, prior to surgery, it was thought that there was a break or fracture of the prosthetic device, that this was the cause of the claimant's knee problems, and that it was the needed procedure to resolve the condition. In this regard, we have stated that, where the only resulting condition from an incident is the breaking or damage to a prosthetic device without any corresponding injury to a body part, such would generally not result in a compensable injury. Texas Workers' Compensation Commission Appeal No. 91001, decided July 31, 1991. However, this is basically a factual issue as to whether there is any injury or bodily harm to support a determination of whether a compensable injury has resulted to the claimant's right knee. While it is clear that the prosthetic device had very significant normal wear and tear, that does not equate to the claimant not having a compensable injury causally related to the incident of \_\_\_\_\_. While different inferences may be reasonably drawn from the evidence presented, we conclude that there was sufficient evidence from which the hearing officer could reasonably find that the claimant's injury extended to his right knee and that the subsequent surgery related to the compensable knee injury. The claimant testified that he had absolutely no problems with his right knee for several years prior to the incident, that, as a result of the fall, his knee became symptomatic with swelling and pain. The early medical record documents complaints of injury to the right knee and an initial diagnosis of a sprain. Dr. C's reports indicated that, although he suspected a fracture of the prosthesis and that replacement was necessary because of the wear and tear of the device as shown by the surgery, there was a large effusion within the knee and tissue, including scar tissue, that had to be removed. Also, Dr. P equivocates, to a certain degree, in his opinion, by stating parameters involving both presurgery and postsurgery conditions that might relate the knee

surgery to the actual injury of October 16th. In sum, there was evidence from which the hearing officer could reach the findings and conclusions that she reached and which support an aggravation of the prior knee condition. Our review of the evidence does not lead us to conclude that the findings and conclusions of the hearing officer were so against the great weight and preponderance of the evidence as to be clearly wrong or unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986). Accordingly, the decision and order are affirmed.

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Stark O. Sanders, Jr.  
Chief Appeals Judge

CONCUR:

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Alan C. Ernst  
Appeals Judge

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Tommy W. Lueders  
Appeals Judge