

APPEAL NO. 001314

On May 2, 2000, a contested case hearing (CCH) was held. The CCH was held under the provisions of the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). The hearing officer resolved the disputed issue by deciding that respondent (claimant) sustained a compensable injury to her cervical area in addition to bilateral carpal tunnel syndrome (CTS) on _____. Appellant (carrier) requests that the hearing officer's decision that claimant sustained a compensable injury to her cervical area on _____, be reversed and that a decision be rendered that claimant did not sustain a compensable injury to her cervical area, and, in the alternative, requests that the case be remanded to the hearing officer. Claimant requests that the hearing officer's decision be affirmed.

DECISION

Affirmed.

Claimant testified that she tripped over a skid at work on _____, and landed on the concrete floor on her hands and knees and that she turned her head to the right and landed on the right side of her body. It is not disputed that claimant's compensable injury includes bilateral CTS. Claimant was seen by Dr. S on January 11, 1999, and he diagnosed claimant as having bilateral knee contusions and a left wrist contusion, and noted that claimant complained of right arm pain. Dr. S referred claimant to Dr. P, who, on March 22, 1999, reported that he was seeing claimant for injuries to her right wrist and hand and right knee. Dr. P recommended an EMG of claimant's right upper extremity, which was done by Dr. M on March 30, 1999. Dr. P wrote that Dr. M diagnosed claimant as having bilateral CTS, bilateral cubital tunnel syndrome, and right C6 radiculopathy. Dr. P noted on April 28, 1999, that claimant was complaining of pain radiating up her shoulder and into her neck. On May 13, 1999, claimant had a right carpal tunnel release.

On June 6, 1999, Dr. P wrote that claimant continued to complain of neck pain and right upper extremity problems and that claimant could have injured her neck when she fell, which would account for a lot of her right arm pain. Dr. P wrote that an MRI of claimant's cervical spine done on August 6, 1999, showed multilevel degenerative disc disease, spondylosis, spurring, right neurovascular foraminal narrowing at C4-5, bilateral neuroforaminal narrowing at C5-6, and a disc protrusion or herniation at C4-5, which contacted the right ventral surface of the cord. Dr. P wrote on August 11, 1999, that he thinks that the majority of claimant's right arm pain comes from the degenerative discs at C4-5 and C5-6 and that he thinks that her fall at work aggravated the condition that she had, causing inflammation of the nerves, which resulted in chronic right arm pain. In February 2000, Dr. P wrote that he feels that claimant's neck is part of her injury and that claimant's cervical degenerative changes were probably present prior to her work-related injury but that when she fell and was injured, she aggravated that condition, noting that claimant did not have neck or right arm problems before she fell and that after she fell the EMG showed right C6 radiculopathy.

Dr. O examined claimant and reviewed claimant's medical records at carrier's request in February 2000 and he opined that he does not think claimant's neck is part of her compensable injury and stated the reasons for his opinion, including the delay in neck complaints and that claimant has cervical degenerative disease that preexisted her work injury.

The hearing officer found that claimant sustained an injury to her cervical area in addition to bilateral CTS while working for employer on _____, and she concluded that claimant sustained a compensable injury to her cervical area in addition to bilateral CTS on _____. Carrier contends that claimant's testimony was inconsistent, that there was no prompt onset of neck symptoms, that claimant's accident report did not mention a neck injury, that Dr. P relied on an incorrect history because he failed to note the absence of neck or shoulder complaints for two and one-half months, and that Dr. O's opinion refutes a causal connection between claimant's accident at work and her neck condition, and that medical evidence was required to prove causation.

The hearing officer is the judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves conflicts in the evidence. The weight to be given to claimant's testimony and to the medical opinions of Drs. O and P was for the hearing officer to determine as the trier of fact. If medical evidence on causation was needed, Dr. P's reports and his opinion on causation supplied that evidence. In Western Casualty and Surety Company v. Gonzalez, 518 S.W.2d 524, 526 (Tex. 1975), the court noted that the site of the trauma and its immediate effects are not necessarily determinative of the nature and extent of the compensable injury and that the full consequences of the original injury, together with the effects of its treatment, upon the general health and body of the worker are to be considered. The aggravation of a preexisting condition (in the course and scope of employment) is a compensable injury for purposes of the 1989 Act. Peterson v. Continental Casualty Company, 997 S.W.2d 893 (Tex. App.-Houston [1st Dist.] 1999, no pet. h.). We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust.

The hearing officer's decision and order are affirmed.

Robert W. Potts
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Tommy W. Lueders
Appeals Judge