

APPEAL NO. 002517

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On October 2, 2000, a contested case hearing was held. The hearing officer resolved the disputed issue by deciding that the appellant (claimant) is not entitled to lifetime income benefits (LIBs) based on his claim of total and permanent loss of use of both hands. The claimant appealed. The respondent (carrier) responded.

DECISION

Affirmed.

According to medical records, the claimant was working as a truck driver on _____, when he fell down between a truck and a loading dock. As a result of his injury, the claimant underwent a cervical fusion at C5-6 and C6-7 in 1992, a rotator cuff repair of the left shoulder in 1993, and a subacromial decompression and debridement of the right shoulder in 1994. In 1997, the claimant was diagnosed as having bilateral cubital tunnel syndrome and bilateral carpal tunnel syndrome. The claimant and the claimant's wife testified at the hearing and medical records and reports were in evidence.

The claimant claims that he is entitled to LIBs based on the total and permanent loss of use of both hands. Section 408.161(a)(3) and (b). The applicable law on this issue and our standard of review are set out in Texas Workers' Compensation Commission Appeal No. 941190, decided October 17, 1994, and Texas Workers' Compensation Commission Appeal No. 960563, decided May 2, 1996.

The hearing officer made findings of fact adverse to the claimant's claim for LIBs and decided that the claimant is not entitled to LIBs based on his contention of total and permanent loss of use of both hands. There is conflicting evidence in this case. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. The hearing officer's decision reflects that he correctly applied the applicable law to the facts. The hearing officer's decision is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

Robert W. Potts
Appeals Judge

CONCUR:

Kathleen C. Decker
Appeals Judge

Kenneth A. Huchton
Appeals Judge