

APPEAL NO. 010992
FILED JUNE 12, 2001

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). Following a contested case hearing held on April 12, 2001, the hearing officer resolved the sole disputed issue by determining that the appellant's (claimant) compensable injury does not extend to and include chondromalacia and/or osteoarthritis in her knees. The claimant appeals this determination, asserting that her medical evidence established that her preexisting chondromalacia and/or osteoarthritis was aggravated when she fell onto her knees at work. The respondent (carrier) urges the sufficiency of the evidence to support the hearing officer's determination.

DECISION

Affirmed.

The parties stipulated that on _____, the claimant sustained compensable injuries of a complex tear of the lateral meniscus of the left knee, a horizontal tear involving the posterior horn of the lateral meniscus of the right knee, and a Grade I sprain of the proximal medial collateral ligament of the right knee. The claimant testified that she fell onto her knee when she slipped while waxing a floor at work. She conceded having been diagnosed and treated for arthritis in the knees approximately one year before the injury at work but said her knee problems became markedly worse after the fall and contended that her medical records, particularly those of Dr. M, established that her fall aggravated her preexisting knee condition. The carrier relied on the opinion of Dr. T, who reviewed the records and stated that "it is virtually impossible" for the chondromalacia/arthritis to have occurred due to the work injury.

The hearing officer did not err in concluding that the injury the claimant sustained to her knees when she fell on them at work on _____, "does not include, nor extend to include, an injury for chondromalacia and/or osteoarthritis in both knees." The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14 Dist.] 1984, no writ)). The Appeals Panel, an appellate-reviewing tribunal, will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find them so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

Philip F. O'Neill
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Michael B. McShane
Appeals Judge