

APPEAL NO. 011142
FILED JUNE 27, 2001

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 26, 2001. With respect to the issue before her, the hearing officer determined that the respondent's (claimant) compensable injury of _____, extended to and included osteoarthritis of his right knee. The appellant (carrier) appeals and seeks reversal on sufficiency grounds. The claimant responds and urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's compensable injury extended to and included osteoarthritis in his right knee. Evidence adduced at the hearing supporting the hearing officer includes the claimant's testimony and medical reports from his treating doctor demonstrating that the osteoarthritis in his right knee was a result of his original knee injury and his surgery therefor. The carrier presented medical records from the Texas Workers' Compensation Commission required medical examiner who opined that the claimant's osteoarthritis was an ordinary disease of life.

The parties presented conflicting evidence on the disputed issues. Pursuant to Section 410.165(a), the hearing officer is the sole judge of the weight and credibility of the evidence. The hearing officer resolves the conflicts and inconsistencies in the evidence and determines what facts have been established from the conflicting evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ); St. Paul Fire & Marine Insurance Company v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). This tribunal will not disturb the challenged 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. 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).

For these reasons, we affirm the decision and order of the hearing officer.

Susan M. Kelley
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Gary L. Kilgore
Appeals Judge