

APPEAL NO. 011592
FILED AUGUST 09, 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 May 30, 2001. The hearing officer resolved the disputed issue by deciding that the appellant's (claimant) compensable injury is not a producing cause of her varicosity of the right leg and internal derangement or internal injury to the right knee. The claimant appealed and the respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

While at work, the claimant slipped on a wet floor and fell onto both knees. The parties stipulated that the claimant had sustained a compensable injury. At issue is whether that injury was a producing cause of varicosity of the right leg and internal injury to the right leg. The hearing officer commented that she believed expert medical evidence was necessary to establish the causal link between the compensable fall and the claimed condition. To support her assertion of a causal link between her compensable injury of _____, and her current right leg condition, the claimant presented a letter, dated October 26, 2000, from Dr. H, the claimant's treating doctor. While Dr. H relates the claimant's condition to the _____, compensable injury, he appears to base this relationship on the history given to him by the claimant. In his letter, Dr. H states, "My impression of the diagnosis there is that she has a varicosity at the right knee. She tells me this was not present prior to her fall." Dr. H further states:

I would say that the fact she only has a varicosity on her right knee and that this appeared at the time of her injury would relate this directly to her injury. She additionally tells me that she has been having problems with her right knee since her injury.

Also in evidence was a report from Dr. S dated December 29, 2000, in which he states:

I have discussed with [claimant] and her husband that it is really pretty impossible for me at this point to say that her varicosities are related to her fall. It is a chronic process that she may have well had before. Certainly this could have been aggravated by her fall as well as her anterior knee pain and osteoarthritis I explained to her that her arthritis certainly could have been flared up in her fall but most likely should have gotten better sometime in the 1 ½ year interval. Her arthritis will also likely progress with time and is susceptible to intermittent flares....

The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). 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). The hearing officer was obviously not persuaded by the medical evidence and a fact finder is not bound by the testimony (or evidence) of a medical witness where the credibility of that testimony (or evidence) is manifestly dependent upon the credibility of the information imparted to the medical witness by the claimant. Rowland v. Standard Fire Insurance Company, 489 S.W.2d 151 (Tex. Civ. App.-Houston [14th Dist.] 1972, writ ref'd n.r.e.). 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. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

Thomas A. Knapp
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Michael B. McShane
Appeals Judge