

APPEAL NO. 011888
FILED SEPTEMBER 19, 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 July 26, 2001, the hearing officer resolved the disputed issues by determining that the appellant (claimant) did not sustain a compensable injury on _____; that her claimed injury of that date does not extend to and include headaches, blurred vision, and injury to the thoracic spine, lumbar spine, left shoulder, left rib cage, left knee, and head; and that because she did not sustain a compensable injury, she did not have disability. The claimant has appealed these determinations on evidentiary sufficiency grounds. The respondent (carrier) urges in response that the evidence is sufficient to warrant our affirmance.

DECISION

Affirmed.

The claimant testified that on _____, while she sat in the driver's seat of her car, which was parked at the front of the hotel where she worked, a coworker driving the hotel van backed into her left front fender giving her a "very hard jolt" and causing her body to strike the driver's side door. She said she "went into a state of shock," got out of her car, went into the hotel, asked coworkers to call 911, left when they took no action, and drove home where she called for an ambulance and was taken to a hospital. The claimant further stated that she was seen at the hospital and released; that the next day she commenced treatment with Dr. D, who had been treating her work-related left knee injury; and that Dr. D took her off work and has yet to release her for return to work. The coworker who drove the van testified that the rear bumper of the van struck the middle of the left front fender of the claimant's car while she was backing up at one mile per hour or less while turning the van around; that the van bumper was undamaged; that the claimant's car had a "minor bend" in the fender; and that, when she inquired, the claimant told her she was all right. Coworkers in the hotel lobby who saw the collision testified that the claimant said she was all right and that the damage to her car was very slight. However, Dr. D's _____, report stated that the van "slammed into" the claimant's car and that "the impact jerked [the claimant] forcefully hitting her left side against the left door area." Dr. D further reported on June 12, 2001, that "the hotel's one ton van smashed into her vehicle on the driver's front side" and that "[t]his hard hit, while [the claimant] was in a weakened state, caused severe bodily damage," and "she suffered head, neck, upper extremity, back damage and hurt her left knee again." The ambulance crew report noted no obvious injuries.

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, and determines what facts have been proved (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo

1974, 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. Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (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.

The name of the carrier is **AMERICAN ZURICH INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**GEORGE MICHAEL JONES
9330 LBJ FREEWAY, SUITE 1200
DALLAS, TEXAS 75243**

Philip F. O'Neill
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Thomas A. Knapp
Appeals Judge