

APPEAL NO. 012318
FILED NOVEMBER 13, 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 August 27, 2001. With regard to the issue before him, the hearing officer determined that the appellant's (claimant herein) compensable injury on _____, did not include an injury to the claimant's left knee. The claimant appeals, arguing that the evidence established that his compensable injury included an injury to his left knee. The respondent (carrier herein) replies that the decision of the hearing officer was sufficiently supported by the evidence.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

At issue in this case is whether the hearing officer erred in determining that the compensable injury sustained by the claimant on _____, does not extend to an injury to the claimant's left knee. Conflicting evidence was presented at the hearing regarding the extent of injuries sustained by the claimant. Extent of injury is a question of fact. Texas Workers' Compensation Commission Appeal No. 93613, decided August 24, 1993. Section 410.165(a) provides that the contested case hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. 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, 702 (Tex. Civ. App.-Amarillo 1974, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); Aetna Insurance Co. v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). An appeals-level body is not a fact finder, and does not normally pass upon the credibility of witnesses or substitute its own judgment for that of the trier of fact, even if the evidence would support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied). When reviewing a hearing officer's decision for factual sufficiency of the evidence we should reverse such decision only if it is 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). This is so even though another fact finder might have drawn other inferences and reached other conclusions. Salazar v. Hill, 551 S.W.2d 518 (Tex. Civ. App.-Corpus Christi 1977, writ ref'd n.r.e.). Applying this standard of review, we are satisfied that the evidence in this case sufficiently supports the hearing officer's determination that the compensable injury sustained by the claimant does not extend to an injury to his left knee.

The decision and the order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **BANKERS STANDARD INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**MARCUS MERRITT
C/O ACE-USA
6600 CAMPUS CIRCLE DR. EAST, SUITE 200
IRVING, TX 75063.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Judge

Philip F. O'Neill
Appeals Judge