

APPEAL NO. 012320
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 September 5, 2001. The hearing officer determined that the respondent (claimant) sustained a compensable injury to his cervical and thoracic spine in addition to his lower back, left hip, and right shoulder on_____. The appellant (carrier) contends on appeal that there is no evidence to support this determination or, alternatively, that it is against the great weight and preponderance of the evidence. The claimant urges affirmance.

DECISION

Affirmed.

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). We are satisfied that the evidence in this case sufficiently supports the hearing officer's determination that the claimant sustained a compensable injury to his cervical and thoracic spine in addition to his lower back, left hip, and right shoulder on_____.

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

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

**WALTER EDWARD NEULS
12850 SPURLING DRIVE, SUITE 250
DALLAS, TEXAS 75380.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Robert W. Potts
Appeals Judge