

APPEAL NO. 012573
FILED DECEMBER 11, 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 (CCH) was held on October 2, 2001. The appellant (carrier) appeals the hearing officer's determinations that the respondent (claimant) sustained a compensable left shoulder injury on _____, and that the claimant has had disability beginning on March 29, 2001, and continuing through the date of the CCH. The claimant responds, urging affirmance. The determination that the claimant did not sustain an injury to his neck has not been appealed and has become final.

DECISION

Affirmed.

The claimant was asleep in the berth portion of a truck when it was struck at a back corner by another vehicle, which was more severely damaged than the truck in which the claimant was riding. He described how he attempted to brace himself by reaching up and grabbing an overhead rack to break his forward momentum toward the backs of the passenger and driver seats.

There was conflicting evidence presented at the CCH, with some evidence that the claimant complained of a popping sensation in his shoulder from performing chores around the house. Section 410.165(a) provides that the 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. 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 great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard, we find no grounds to reverse the factual findings of the hearing officer.

The decision and order of the hearing officer are affirmed.

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

**PRENTICE HALL CORPORATION SYSTEM, INC.
800 BRAZOS
AUSTIN, TEXAS 78701.**

Susan M. Kelley
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Thomas A. Knapp
Appeals Judge