

APPEAL NO. 020572  
FILED APRIL 16, 2002

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 February 20, 2002. The hearing officer determined that the respondent (claimant) sustained a compensable injury on \_\_\_\_\_; that the claimant did not sustain any disability (as defined in Section 401.011(16)); and that the claimant's average weekly wage (AWW) was \$630.00. The hearing officer's determinations on disability and AWW have not been appealed and have therefore become final pursuant to Section 410.169.

The appellant (carrier) appeals the injury issue, arguing that the claimant had not sustained a compensable injury, pointing to various inconsistencies on how the accident occurred, and questioning the credibility of the claimant's testimony. The claimant responds, urging affirmance.

DECISION

Affirmed.

The claimant testified that he was employed as a laborer and was in an eight-foot hole when a backhoe knocked some debris and broken concrete into the hole, injuring him. The claimant's testimony is supported to some extent by two witness statements and a medical report from an independent medical examination doctor. Although there were inconsistencies in the testimony, we have long held that the hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)), resolves the conflicts and inconsistencies in the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)), and determines what facts have been established from the conflicting evidence. St. Paul Fire & Marine Insurance Company v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.).

The hearing officer's decision is supported by the evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust.

Accordingly, the hearing officer's decision and order are affirmed.

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

**C T CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Gary L. Kilgore  
Appeals Judge