

APPEAL NO. 020984  
FILED JUNE 11, 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 March 19, 2002. The hearing officer determined that the deceased's compensable right knee injury of \_\_\_\_\_, resulted in his death on \_\_\_\_\_.

The appellant (carrier) appealed, contending that the medical evidence was insufficient to support the hearing officer's decision, that the deceased had in fact died as a result of a heart attack unrelated to the employment, and that the respondent's (claimant/beneficiary) evidence does not establish that the deceased's "death naturally flowed from the compensable injury" and does not rise to the level of reasonable medical probability. The claimant/beneficiary responded, citing Appeals Panel decisions and urging affirmance.

DECISION

Affirmed.

It is undisputed that the deceased, age 43 at the time of his compensable injury, had had a kidney transplant in 1975, had been treated with immunosuppressive medication, and had a complicated medical history. There was uncontroverted testimony that he had not missed any work in the nine or ten years of his employment except for gallbladder surgery in 1985. The parties stipulated that the deceased sustained a compensable right knee injury on \_\_\_\_\_, when he hit his leg on a metal object. The deceased was initially diagnosed with a contusion and hematoma. The deceased subsequently developed an infection, was prescribed antibiotics, and was referred to a specialist. The deceased was admitted for the first of several hospitalizations on June 14, 2000, with a diagnosis of cellulitis and was prescribed intravenous antibiotics. The deceased continued to be admitted and discharged by three hospitals, including (hospital 3) on some eight or nine times between June 2000 and \_\_\_\_\_, when he was again admitted at hospital 3 with impressions that included hypotension, sepsis, renal disease, a "[h]istory of hepatitis C and cirrhosis with abnormal liver function tests" and atrial fibrillation. The deceased died the following day, \_\_\_\_\_.

An autopsy report had findings of propoxyphene toxicity, atherosclerotic cardiovascular disease, chronic renal failure, and liver fibrosis with ascites and hyposplenism. The cause of death was listed as propoxyphene toxicity and the manner of death was "Accident." The death certificate gave as the immediate cause of death "cardiorespiratory arrest." The claimant/beneficiary's contention is that the treatment of the compensable injury infection with antibiotics caused the deceased's liver and renal failure, eventually

resulting in the deceased's death when his heart stopped. The carrier contends that the deceased died from cardiorespiratory arrest unrelated to the compensable injury.

The claimant/beneficiary's position is supported by Dr. D, who wrote that "within reasonable medical probability the proximate cause of [deceased's] hepatic decompensation was his work-related injury. Subsequent therapy, required to treat the work-related injury, exacerbated the liver dysfunction and contributed to his death." The carrier's position is supported by Dr. H, a transplant surgeon, who commented that while "the wound infection certainly contributed to the claimant's [sic, deceased's] overall illness," the cause of death was "by acute myocardial infarction resulting in sudden death."

In Texas Workers' Compensation Commission Appeal No. 950206, decided March 28, 1995, the Appeals Panel stated:

The employer takes the employee as he finds him. Texas Workers' Compensation Commission Appeal No. 941328, decided November 17, 1994 . . . . In Appeal No. 941328, *supra*, we stated "[t]he fact that some underlying disease enhanced the affects of a work-related injury does not render the amplified consequences of an injury noncompensable." See also Sowell v. Travelers Insurance Co., 374 S.W.2d 412 (Tex. 1963).

The issue in this case was framed as "[d]id the compensable injury . . . result in the claimant's [sic, deceased's] death?" Causation in this case must be proved by expert evidence to a reasonable degree of medical probability. Schaefer v. Texas Employers' Insurance Association, 612 S.W.2d 199 (Tex. 1980). Here we have conflicting expert medical opinion and, notwithstanding the carrier's argument that Dr. D's opinion regarding causation lacked a scientific basis, there was conflicting expert medical evidence. Whether the deceased's death was due to complications and treatment of the compensable injury causing reactions in the deceased's immune system or whether the deceased "died from cardiorespiratory arrest–heart attack" was ultimately a question of fact for the hearing officer to resolve.

With conflicting expert medical evidence in support of contradictory views, we cannot say that either the hearing officer erred as a matter of law or that her decision is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

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

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

**CT CORPORATION  
350 NORTH ST. PAUL  
DALLAS, TEXAS 75201.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Susan M. Kelley  
Appeals Judge

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Robert W. Potts  
Appeals Judge