

APPEAL NO. 021293  
FILED JULY 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 April 16, 2002. The hearing officer decided the deceased did not sustain a compensable heart attack on \_\_\_\_\_, and that the proper beneficiaries are BB, SB, JB, and BrB. The appellants (beneficiaries) appeal the determination that the heart attack was not compensable. The respondent (carrier) files a response, urging affirmance.

DECISION

Affirmed.

We briefly address the beneficiaries' assertion that the hearing officer was biased in favor of the carrier. After carefully reviewing the record, we cannot agree that the hearing officer's decision in this instance was the product of bias or prejudice. Rather, we believe that his determination was the result of his resolving the conflicts and inconsistencies in the evidence and assessing credibility.

On \_\_\_\_\_, the decedent had a fatal heart attack while at work. The compensability of heart attacks is governed by the provisions of Section 408.008, which requires, for compensability, that the attack be identified as having occurred at a definite time and place; that it be caused by a specific event occurring in the course and scope of employment; that the preponderance of the medical evidence regarding the attack indicates that the employee's work rather than the natural progression of a preexisting heart condition or disease was a substantial contributing factor of the attack; and that the attack was not triggered solely by emotional or mental stress factors unless it was precipitated by a sudden stimulus. The decision in Texas Workers' Compensation Commission Appeal No. 012071-s, decided October 18, 2001, contains a summary of the pertinent Appeals Panel case law construing this statute.

The hearing officer, tracking the language of § 408.008, stated, "The heart attack was not caused by a specific event occurring in the course and scope of the deceased employment." The beneficiaries contend that the hearing officer erred because, as they point out, § 408.008 does not require that the heart attack be caused by a single incident. Although a series of activities within a specific period of time may meet the definition of "specific event," the hearing officer determined that there was no causal connection between the decedent's work and his heart attack. Texas Workers' Compensation Commission Appeal No. 951862, decided December 20, 1995; *and see* Texas Workers' Compensation Commission Appeal No. 992851 decided January 27, 2000.

The determination of the compensability of a heart attack must be based on a comparing or weighing of the effect of the work against the natural progression of a

preexisting heart condition. Texas Workers' Compensation Commission Appeal No. 91009, decided September 4, 1991. The claimant has the burden of proving the compensability of a heart attack. Texas Workers' Compensation Commission Appeal No. 91081, decided December 31, 1991. The claimant and the carrier presented conflicting medical evidence regarding whether the work or the natural progression of the decedent's preexisting heart disease was the substantial contributing factor of the heart attack. The hearing officer's findings of fact indicate that he believed the preponderance of the medical evidence indicated that the primary precipitating cause of the decedent's heart attack and death was the natural progression of preexisting heart disease.

We are satisfied that the hearing officer's findings and conclusions, which are challenged by the beneficiaries for evidentiary insufficiency, are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

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

**MR. RUSSELL R. OLIVER, PRESIDENT  
221 WEST 6TH STREET  
AUSTIN, TEXAS 78701.**

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Roy L. Warren  
Appeals Judge

CONCUR:

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Susan M. Kelley  
Appeals Judge

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Robert E. Lang  
Appeals Panel  
Manager/Judge