

APPEAL NO. 021316  
FILED JULY 12, 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 (CCH) was held on April 22, 2002. The hearing officer resolved the disputed issues by concluding that the compensable injury of \_\_\_\_\_, extends to and includes avascular necrosis (AVN) of the right hip, but not the left, and that the respondent (claimant) had disability from \_\_\_\_\_, through the date of the CCH. The appellant (carrier) appeals, arguing that the determinations of the hearing officer are against the great weight and preponderance of the evidence. The appeal file does not contain a response from the claimant.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on \_\_\_\_\_, when he fell from a scaffold. It was undisputed that the claimant suffered from AVN. The hearing officer determined that the claimant's compensable injury extended to AVN of the right hip and that the claimant had disability from \_\_\_\_\_, through the date of the CCH. The issues of extent of injury and disability presented questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence under Section 410.165(a). As such, it was his responsibility to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. The trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). In this case, there was conflicting evidence on the question of whether the AVN was aggravated by the compensable injury. The hearing officer specifically noted that the testimony of the carrier's expert witness, Dr. B, at the CCH was by far the most credible, based upon his expertise and access to a more complete medical history for the claimant. While the carrier argues that Dr. B, at most, stated that the AVN was "possibly" aggravated by the \_\_\_\_\_, injury, a review of the record reflects that Dr. B stated, "In terms of the temporal sequence of the events, I think you can say in all medical probability that there was some aggravation of the disease process, yes." The carrier argues that Dr. B was "merely talking about complaints of pain or discomfort" when he talked about aggravation. However, the record additionally reflects that Dr. B stated, "[B]y history it sounds like [claimant] did get acutely worse, which means that he probably did aggravate the hip and it may have sped up the process."

The hearing officer noted in his statement of the evidence that the extent-of-injury question is determinative of the disability question. The medical evidence supported a conclusion that the condition of the claimant's right hip prevents the claimant from returning to his preinjury line of work.

Our review of the record does not reveal that the hearing officer's extent-of-injury and disability determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Therefore, no sound basis exists for us to reverse those determinations on appeal. Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Although another fact finder could have drawn different inferences from the evidence in the record, which would have supported a different result, that does not provide a basis for us to disturb the hearing officer's decision. Salazar, et al. v. Hill, 551 S.W.2d 518 (Tex. Civ. App.-Corpus Christi 1977, writ ref'd n.r.e.).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **AMCOMP ASSURANCE CORPORATION** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY  
800 BRAZOS STREET, SUITE 330  
AUSTIN, TEXAS 78701.**

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Michael B. McShane  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Susan M. Kelley  
Appeals Judge