

APPEAL NO. 021816
FILED AUGUST 29, 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 June 13, 2002. The hearing officer determined that the respondent (claimant) sustained a compensable injury on _____; that the compensable injury extends to and includes a total joint replacement of the right knee; and that the claimant had disability from _____ to July 20, 2001. The appellant (carrier) appealed, arguing that the hearing officer's determinations are against the great weight and preponderance of the evidence. The claimant's response urges affirmance.

DECISION

Affirmed.

The issues of whether the claimant sustained a compensable injury and whether the compensable injury extended to and included a total joint replacement of the right knee were questions of fact for the hearing officer. The hearing officer is the sole judge of the relevance and materiality of the evidence and of its weight and credibility. Section 410.165(a). It is for the hearing officer to resolve the inconsistencies and conflicts in the evidence and to decide what facts the evidence has established. Garza v. Commercial Ins. Co., 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). The hearing officer credited the evidence from the claimant's treating doctor, who opined that the claimant's injury at work aggravated the preexisting degenerative condition in his right knee necessitating a total knee replacement. The hearing officer was acting within her province as the fact finder in so doing. Nothing in our review of the record demonstrates that the challenged determinations are so contrary to 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. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986).

The success of the carrier's disability challenge is dependent upon the success of its argument that the compensable injury does not include the total right knee replacement. Given our affirmance of that determination, we likewise affirm the determination that the claimant had disability from _____ to July 20, 2001, as a result of his compensable injury.

The hearing officer's decision and order are affirmed.

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

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Robert E. Lang
Appeals Panel
Manager/Judge

Philip F. O'Neill
Appeals Judge