

FILED

AUG 20 2002

DIRECTOR
DIVISION OF HEARINGS
TEXAS WORKERS'
COMPENSATION COMMISSION

APPEAL NO. 021862

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 19, 2002, and closed on June 20, 2002, in [redacted] Texas, with [redacted] presiding as hearing officer. The hearing officer determined that the compensable injury (left shoulder surgery occasioned by a motor vehicle accident (MVA)) did not extend to and include strokes, which resulted in the decedent's death.

The appellant, who is the decedent's wife (claimant beneficiary), appealed, reciting the arguments showing causation between the compensable left shoulder surgery and the decedent's death. The carrier responds, urging affirmance.

DECISION

Affirmed.

It is undisputed that the decedent was involved in a compensable MVA on [redacted]. The decedent sustained some nonlife-threatening injuries, which included the surgical repair of a left rotator cuff on July 25, 2000. (At about the time he was to be

discharged from the hospital the decedent received an injection, which required that he be held overnight in the hospital.) The decedent suffered a stroke either on _____ or _____, and a second stroke three days later. The decedent ultimately died on _____. At issue is whether either the surgery for the compensable shoulder injury or care thereafter, caused one or both of the decedent's strokes.

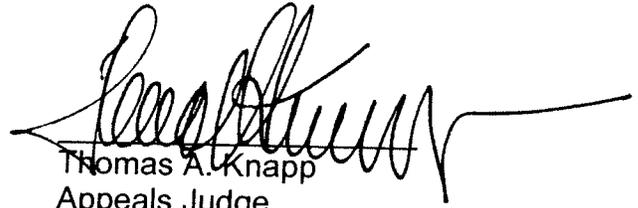
At least three doctors advanced different theories, with one doctor stating that the etiology of the strokes was unclear. Another of the doctors, a cardiologist, testified at the CCH that, in his opinion, there was no causal relationship between the surgery and the strokes, and attributed the strokes to "an unfortunate confluence of events" due to the claimant's arguable poor health. As the claimant beneficiary pointed out, there was conflicting expert medical evidence.

As the fact finder, the hearing officer was charged with the responsibility of resolving the conflicts and inconsistencies in the evidence and deciding what facts the evidence had established. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was acting within his province as the fact finder in resolving the conflicts and inconsistencies in the evidence in making his decision. Nothing in our review of the record reveals that the challenged determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Accordingly, no sound basis exists for us to disturb those determinations on appeal.

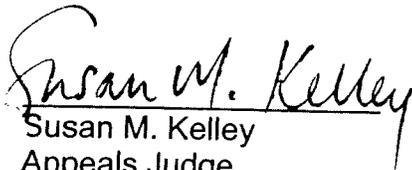
The hearing officer's decision and order are affirmed.

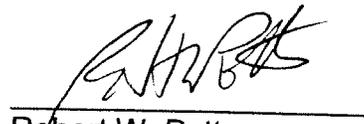
The true corporate name of the insurance carrier is **SAFECO INSURANCE COMPANY OF AMERICA** and the name and address of its registered agent for service of process is

**LEON CROCKETT
1600 NORTH COLLINS BLVD., SUITE 300
RICHARDSON, TEXAS 75080.**


Thomas A. Knapp
Appeals Judge

CONCUR:


Susan M. Kelley
Appeals Judge


Robert W. Potts
Appeals Judge