

APPEAL NO. 022166  
FILED SEPTEMBER 27, 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 July 26, 2002. The hearing officer determined that (1) the compensable injury of \_\_\_\_\_, does not include chondromalacia of the left knee; and (2) the appellant's (claimant) impairment rating (IR) is eight percent as certified by the Texas Workers' Compensation Commission-appointed designated doctor. The claimant appeals the determinations on sufficiency grounds. The respondent (carrier) urges affirmance.

DECISION

Affirmed.

**EXTENT OF INJURY**

The hearing officer did not err in determining that the compensable injury of \_\_\_\_\_, does not include chondromalacia of the left knee. This was a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's injury determination 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 (Tex. 1986).

The claimant argues that the hearing officer did not give fair consideration to an MRI report of the left knee dated April 26, 2002. The record is clear that the hearing officer, as sole judge of the weight and credibility of the evidence, reviewed the MRI report and gave it what weight she deemed appropriate. As an appellate body we will not substitute our judgment for that of the trier of fact, even if the evidence would support a different result. Texas Workers' Compensation Commission Appeal No. 950084, decided February 28, 1995.

The claimant also asserts error in the admission of Carrier's Exhibit No. 6. The record reflects that the claimant objected to the admission of the exhibit at the hearing but withdrew the objection prior to a ruling by the hearing officer. Accordingly, any error in the admission of the record was waived and will not be considered for the first time on appeal.

**IR**

The hearing officer did not err in determining that the claimant's IR is eight percent as certified by the designated doctor. The claimant essentially appeals the hearing officer's determination because it does not include a rating for chondromalacia of the left knee. Given our affirmance of the extent-of-injury determination, we likewise affirm the hearing officer's IR determination.

The decision and order of the hearing officer are affirmed.

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

**GARY SUDOL  
9330 LBJ FREEWAY, SUITE 1200  
DALLAS, TEXAS 75243.**

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Judy L. S. Barnes  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Gary L. Kilgore  
Appeals Judge