

APPEAL NO. 022363  
FILED OCTOBER 31, 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 August 21, 2002. The hearing officer resolved the disputed issue by deciding that the appellant/cross-respondent's (claimant) compensable injury of \_\_\_\_\_, extends to a psychological injury (depression) but does not extend to a cervical injury. The claimant appeals the determination that the compensable injury does not extend to a cervical injury essentially on grounds of the sufficiency of the evidence. The respondent/cross-appellant (carrier) responds, urging affirmance. The carrier appeals the determination that the compensable injury extends to depression, arguing that the medical evidence does not support this conclusion and that there is no evidence that the depression is due to a shoulder injury alone. The claimant responds, urging affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on \_\_\_\_\_. The sole issue before the hearing officer was extent of injury. However, both the injury to the cervical area, as well as a psychological injury (depression), were at issue.

The Appeals Panel observed in Texas Workers' Compensation Commission Appeal No. 961449, decided September 9, 1996, that the fact that there may be more than one cause of the claimant's psychological condition does not preclude a finding of compensability, provided that there is a causal connection between the compensable injury and the claimant's psychological problems. *Compare* Texas Workers' Compensation Commission Appeal No. 950749 decided June 21, 1995, (protracted dispute resolution process does not make resultant stress part of the compensable injury). The causal connection here is met by the fact that the injury resulted in chronic pain and loss of function that the hearing officer expressly found to be a cause of the claimant's depression.

The hearing officer noted in his statement of the evidence that there was no persuasive evidence of any actual damage to the cervical spine beyond ordinary degenerative changes. Differing medical opinions were in evidence regarding the cause of the claimant's cervical condition.

Extent of injury is a question of fact for the hearing officer. Texas Workers' Compensation Commission Appeal No. 93613, decided August 24, 1993. There was conflicting evidence on the issue. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence. It

was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence and determine what facts have been established. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). 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). We will reverse a factual determination of a hearing officer only if that determination is so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard of review to the record of this case, we decline to substitute our opinion for that of the hearing officer.

We affirm the decision and order of the hearing officer.

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

**ROBERT PARNELL  
8144 WALNUT HILL LANE, SUITE 1600  
DALLAS, TEXAS 75231.**

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Margaret L. Turner  
Appeals Judge

CONCUR:

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Susan M. Kelley  
Appeals Judge

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Robert W. Potts  
Appeals Judge