

APPEAL NO. 022910  
FILED JANUARY 6, 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 October 21, 2002. The hearing officer determined that the respondent (claimant) sustained a compensable injury on \_\_\_\_\_, and had disability from April 29 through August 29, 2002.

The appellant (carrier) appeals the disputed issues, basically on sufficiency grounds, pointing to conflicting and inconsistent evidence. The claimant did not respond to the carrier's appeal.

DECISION

Affirmed.

The claimant, a "twister operator" (machine operator), testified that just before quitting time on \_\_\_\_\_, as he was walking to retrieve his tool box he slipped and fell to the floor on top of his left foot. The claimant did not report an injury that evening but went to a hospital emergency room on April 14/15, 2002. The claimant was eventually diagnosed with a left nondisplaced 5th metatarsal base fracture. The carrier's defense is basically premised on the facts that no one saw the claimant fall or appear injured on the evening of \_\_\_\_\_, and that various documented histories given to the doctors and the employer contain inconsistencies. The carrier argues that because the claimant did not sustain a compensable injury the claimant does not have disability.

Whether the claimant sustained a compensable injury, had disability, and the circumstances of the claimed injury were questions 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). 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 favor of the claimant. 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 **AMERICAN MOTORISTS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

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

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Chris Cowan  
Appeals Judge

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Gary L. Kilgore  
Appeals Judge