

APPEAL NO. 031623
FILED JULY 31, 2003

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 May 20, 2003. With respect to the issues before her, the hearing officer determined that the appellant's (claimant) compensable injury of _____, does not extend to include vision loss in the left eye, and that he reached maximum medical improvement (MMI) on March 18, 2003, with an impairment rating (IR) of one percent as certified by the designated doctor selected by the Texas Workers' Compensation Commission. In his appeal, the claimant asserts that the hearing officer erred in determining that the compensable injury did not include vision loss in the left eye and in giving presumptive weight to the designated doctor's certification of MMI and IR. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The claimant had the burden to prove that his _____, compensable injury included vision loss in his left eye. That issue presented a question of fact for the hearing officer. There was conflicting evidence presented on the disputed issue. The 1989 Act makes the hearing officer the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). As such, the hearing officer was required to resolve the conflicts and inconsistencies in the evidence and to determine what facts the evidence established. In this instance, the hearing officer simply was not persuaded that the claimant sustained his burden of proving that his compensable injury included vision loss in his left eye. The hearing officer was acting within her province as the finder of fact in so finding. Nothing in our review of the record reveals that the challenged determination is so contrary to the overwhelming weight of the evidence as to be clearly wrong or unjust. Thus, no sound basis exists for us to disturb that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We find no merit in the claimant's assertion that the hearing officer erred in giving presumptive weight to the designated doctor's certification of MMI and IR. The claimant did not present any medical evidence contrary to the designated doctor's certification of MMI and IR, let alone the great weight of the other medical evidence contrary thereto. Thus, the hearing officer did not err in giving the designated doctor's report presumptive weight in accordance with Sections 408.122(c) and 408.125(c) or in determining that the claimant's reached MMI on March 18, 2003, with an IR of one percent in accordance with that report.

The hearing officer's decision and order is affirmed.

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

**ROBIN M. MOUNTAIN
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 300
IRVING, TEXAS 75063.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Thomas A. Knapp
Appeals Judge