

APPEAL NO. 032128
FILED SEPTEMBER 18, 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 (CCH) was held on July 9, 2003, with the record being closed on July 11, 2003. The hearing officer determined that the compensable injury of _____, extends to and includes three fractured ribs, neural pathology in the left arm, carpal tunnel syndrome, Dupuytren's contracture in the left hand, and a psychological disorder, but does not extend to or include brachial plexus syndrome. The appellant (carrier) appeals on sufficiency of the evidence grounds and asserts that the matter of extent of injury to the ribs was not properly before the hearing officer. The respondent (claimant) urges affirmance.

DECISION

Affirmed.

We first address the carrier's assertion that the matter of extent of injury to the ribs was not properly before the hearing officer. Although the extent-of-injury issue certified in the benefit review conference report did not address an injury to the ribs, our review of the record reveals that the claimant was questioned, at the hearing, with regard to this matter. Accordingly, we cannot conclude that the hearing officer acted improperly in addressing this issue. See Texas Workers' Compensation Commission Appeal No. 962596, decided March 27, 1997 (a hearing officer may decide an issue actually litigated at the CCH, even if it is not among the certified issues in dispute).

The hearing officer did not err in making the complained-of determinations. The determinations involved 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)) 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 determinations are 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, 176 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

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

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Edward Vilano
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Thomas A. Knapp
Appeals Judge