

APPEAL NO. 040037
FILED MARCH 1, 2004

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 November 25, 2003. The hearing officer resolved the disputed issues by deciding that the respondent's (claimant) _____, compensable injury includes injury to the right shoulder and depression, and that the claimant's current right shoulder condition of chronic supraspinatus tendonitis acromioclavicular degenerative joint disease and glenohumeral joint effusion are related to the compensable injury. The appellant (carrier) appealed, disputing the extent-of-injury determinations on sufficiency of the evidence grounds. The appeal file does not contain a response from the claimant.

DECISION

Affirmed.

Extent of injury is a factual question for the hearing officer to resolve. The hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given to the evidence. Section 410.165(a). It is for the hearing officer to resolve the inconsistencies and conflicts in the evidence and to decide what facts the evidence has established. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). Although there was conflicting evidence, the hearing officer was persuaded that the claimant sustained his burden of proving the causal connection between his compensable injury and his depression and the condition of his right shoulder, including chronic supraspinatus tendonitis acromioclavicular degenerative joint disease and glenohumeral joint effusion. The hearing officer was acting within her province as the fact finder in making these determinations. Nothing in our review of the record reveals that the hearing officer's extent-of-injury determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to disturb those determinations on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the decision and order of the hearing officer.

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.**

Margaret L. Turner
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Robert W. Potts
Appeals Judge