

APPEAL NO. 040153
FILED FEBRUARY 27, 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 (CCH) was held on December 29, 2003. The hearing officer determined that the appellant's (claimant) compensable injury of _____, does not include an injury to the cervical spine. The claimant appealed the hearing officer's extent-of-injury determination based on sufficiency of the evidence. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on _____. The claimant testified that on _____, he injured his neck and both wrists when he slipped and fell to the ground while climbing onto a parked boat. The claimant testified that he was treated for a fractured left wrist. The claimant contends that after a few months he began to have stiffness in his neck and back, and he sought medical treatment from Dr. H in April 1999. The claimant stated that he had prior work-related injuries in 1985 and 1994. In 1985, the claimant fell 12-15 feet off the edge of a bridge landing on a creek bed and claiming injuries to his head, wrists, arms, and hip. A medical report by Dr. H dated September 11, 2003, states that the claimant's cervical herniation was either caused or exacerbated by the incident on _____. A medical report by Dr. O dated July 14, 1999, essentially states that the claimant's cervical herniations are an ordinary disease of life. The claimant contends that his compensable injury of _____, extends to include his cervical spine. The carrier contends that the claimant's neck condition is an ordinary disease of life and that his condition is related to his prior 1985 injury.

There was conflicting medical evidence presented on the disputed issue. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had 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). In view of the evidence presented, we cannot conclude that the hearing officer's determination is 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 claimant attached two medical documents that were admitted at the CCH with his appeal. The claimant contends that the hearing officer did not give appropriate consideration in determining the extent-of-injury issue. The hearing officer commented on the medical reports by Dr. H and specifically quoted from the medical report by Dr. S

dated November 3, 2003. The hearing officer stated, in the Statement of the Evidence portion of the decision, that all of the evidence presented was considered. The fact that the hearing officer issued a decision adverse to the claimant does not demonstrate bias but is the prerogative of the hearing officer as the sole judge of the weight and credibility of the evidence. Section 410.165(a). We find no merit in the claimant's contention that the hearing officer did not give consideration or take into account all of the evidence presented at the CCH.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **STATE OFFICE OF RISK MANAGEMENT (a self-insured governmental entity)** and the name and address of its registered agent for service of process is

For service in person the address is:

**RON JOSSELET, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
300 WEST 15TH STREET
WILLIAM P. CLEMENTS, JR. STATE OFFICE BUILDING, 6TH FLOOR
AUSTIN, TEXAS 78701.**

For service by mail the address is:

**RON JOSSELET, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
P.O. BOX 13777
AUSTIN, TEXAS 78711-3777.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Margaret L. Turner
Appeals Judge