

APPEAL NO. 040446
FILED APRIL 22, 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 January 28, 2004. The hearing officer resolved the disputed issues by determining that the appellant (claimant) was not in the course and scope of his employment when he was involved in a motor vehicle accident (MVA) on _____, and that, because the claimant did not sustain a compensable injury, he did not have disability. The claimant appeals these determinations. The respondent (carrier) urges affirmance of the hearing officer's decision.

DECISION

Affirmed.

A compensable injury is defined as “an injury that arises out of and in the course and scope of employment for which compensation is payable under this subtitle.” Section 401.011(10). “Course and scope of employment” means, in pertinent part, “an activity of any kind or character that has to do with and originates in the work, business, trade or profession of the employer and that is performed by an employee while engaged in or about the furtherance of the affairs or business of the employer.” Section 401.011(12). Whether the claimant was in the course and scope of his employment at the time of the claimed injury was a factual question 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), resolves the conflicts and inconsistencies in the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)), and determines what facts have been established from the conflicting evidence. St. Paul Fire & Marine Insurance Company v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.). The hearing officer found that the claimant was not furthering the affairs of his employer at the time of the MVA and, consequently, his injury was not compensable and he did not have disability. Nothing in our review of the record indicates that the hearing officer's decision 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 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

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

**MR. RUSSELL R. OLIVER, PRESIDENT
221 WEST 6TH STREET
AUSTIN, TEXAS 78701.**

Chris Cowan
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert W. Potts
Appeals Judge