

APPEAL NO. 040646
FILED MAY 10, 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 February 19, 2004. The hearing officer determined that the appellant's (claimant) compensable injury of _____, does not include an injury to the left knee. The claimant appealed the hearing officer's extent-of-injury determination based on sufficiency of the evidence grounds. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on _____, to the right knee and left upper extremity. The claimant contended that her compensable injury extended to and included an injury to her left knee. Extent of injury is a question of fact. Texas Workers' Compensation Commission Appeal No. 93613, decided August 24, 1993. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given to the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. 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). The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). In the instant case, the hearing officer determined from the medical records in evidence that the claimant's left knee condition was a result of the claimant's progressive degenerative condition and that the left knee condition did not naturally flow from the claimant's compensable injury to the right knee. Although there was conflicting evidence in this case, we conclude that the hearing officer's extent-of-injury determination is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The claimant complains that she was not able to explain "all that I have gone through since the injury date it's a yes or no answer if am put on [the] stand I should be able to explain all." Our review of the record indicates that during cross-examination, the carrier's attorney requested that the claimant answer the questions asked with a "yes" or "no" response, and that the claimant's attorney assured the claimant that she would have the opportunity to explain what she wanted to say during redirect examination. The hearing officer gave the claimant a full opportunity to present her

case; thus, we find no merit in the assertion that the claimant was not provided an opportunity to explain her case. We perceive no error.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **CONTINENTAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL
DALLAS, TEXAS 75201.**

Veronica L. Ruberto
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Edward Vilano
Appeals Judge