

APPEAL NO. 040862
FILED MAY 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 was held on March 29, 2004. The hearing officer determined that the decedent's death was not a result of the compensable injury sustained on _____. The appellant (claimant beneficiary) appealed the hearing officer's determination based on sufficiency of the evidence grounds. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The parties stipulated that the decedent sustained a compensable injury on _____, and that the decedent died on September 14, 2003. The decedent, a funeral director, sustained a closed head injury on _____, when he struck his head on a casket at work. The claimant beneficiary testified that on September 13, 2003, the decedent was hospitalized for symptoms of vomiting and diarrhea and that the decedent died on September 14, 2003. The medical evidence reflects that the decedent developed septic shock from food poisoning, specifically a "shigella" infection. At issue was whether the decedent's death was a result of the compensable injury sustained on _____.

The hearing officer considered the evidence and concluded that the compensable closed head injury was not a producing cause of the decedent's death on September 14, 2003. Causation was a question of fact for the hearing officer to decide. Section 410.165(a) provides that the hearing officer, as fact finder, is the sole judge of the weight and credibility to be given to the evidence. In the discharge of this responsibility, the hearing officer resolves conflicts and inconsistencies in the medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). In this case, the hearing officer reviewed the evidence and he found that the primary cause of the decedent's death was septicemia from a shigella infection. The hearing officer determined that the claimant beneficiary did not sustain her burden to show that the closed head injury of _____, was a producing cause of the decedent's death on September 14, 2003. There is no doubt that the case is a tragic one, however, the matter to be determined was an issue of fact for the hearing officer. 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 (Tex. 1986).

The hearing officer's decision and order 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:

Judy L. S. Barnes
Appeals Judge

Margaret L. Turner
Appeals Judge