

APPEAL NO. 041623
FILED AUGUST 23, 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 June 3, 2004. The hearing officer determined that the respondent's (claimant) impairment rating (IR) was 42%.

The appellant (carrier) appeals, contending that the hearing officer decision is against the great weight and preponderance of the evidence. The claimant responds, urging affirmance or in the alternative requests that we adopt the designated doctor's 63% IR.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on _____, and that the claimant reached maximum medical improvement (MMI) on December 2, 2002, the date of the statutory MMI (see Section 401.011(30)(B)). It is undisputed that the claimant sustained injuries to his neck, low back, ribs, and head "including traumatic brain injury." The parties stipulated that Dr. D was the Texas Workers' Compensation Commission designated doctor who assessed a 63% IR. The hearing officer's determination rejecting Dr. D's 63% IR "as his calculations are incorrect and not in accordance with the AMA Guides" (emphasis in the original) has not been appealed, and therefore we will not consider it further.

The hearing officer determined that the correct IR is 42% as assessed by Dr. K. The carrier asserts that there is no evidence to support that determination (obviously the report itself is some evidence) or in the alternative the determination is against the great weight and preponderance of the evidence. The carrier makes no assertions to support its statement and totally fails to tell us why they believe Dr. K's report is against the great weight of the evidence. In its prayer for relief the carrier requests the hearing officer's decision "be reversed" but fails to tell us what relief it seeks, what other IR it wants us to adopt or, as previously stated, why Dr. K's IR might be wrong.

Accordingly, the hearing officer's decision and order are affirmed.

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

**CORPORATION SERVICE COMPANY
800 BRAZOS, COMMODORE 1, SUITE 750
AUSTIN, TEXAS 78701.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Margaret L. Turner
Appeals Judge