

APPEAL NO. 150040
FEBRUARY 19, 2015

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 December 1, 2014, in Beaumont, Texas, with [hearing officer] presiding as hearing officer. The hearing officer resolved the sole disputed issue by deciding that the compensable injury of [Date of Injury], extends to the left knee radial-oblique tear of the medial meniscus.

The appellant (self-insured) appealed the hearing officer's determination, contending that the hearing officer's determination is contrary to the great weight and preponderance of the evidence. The respondent (claimant) responded, urging affirmance of the hearing officer's determination.

DECISION

Reversed and rendered.

The parties stipulated that the claimant sustained a compensable injury on [Date of Injury], including at least a left knee sprain. The claimant testified that he injured his left knee when he stepped off a ledge that was approximately shin-high.

The Texas courts have long established the general rule that "expert testimony is necessary to establish causation as to medical conditions outside the common knowledge and experience" of the fact finder. *Guevara v. Ferrer*, 247 S.W.3d 662 (Tex. 2007). The Appeals Panel has previously held that proof of causation must be established to a reasonable medical probability by expert evidence where the subject is so complex that a fact finder lacks the ability from common knowledge to find a causal connection. Appeals Panel Decision 022301, decided October 23, 2002. See also *City of Laredo v. Garza*, 293 S.W.3d 625 (Tex. App.-San Antonio 2009, no pet.) citing *Guevara*.

Under the facts of this case, a radial-oblique tear of the medial meniscus is a condition that requires expert medical evidence to establish causation.

In evidence are left knee MRIs dated April 22, 2014, and July 22, 2014. The MRI dated April 22, 2014, notes an impression of a grade 4 chondral ulcer involving the weight-bearing surface of the medial femoral condyle; severe 3/4 patellofemoral chondromalacia, and a popliteal cyst. The MRI dated July 22, 2014, notes an impression of a radial-oblique tear body/posterior horn medial meniscus, among other conditions. The claimant underwent a partial meniscectomy on October 1, 2014.

In evidence are records from (Dr. T), and (Dr. A), the designated doctor appointed by the Texas Department of Insurance, Division of Workers' Compensation (Division) to determine maximum medical improvement (MMI), impairment rating (IR), and the claimant's ability to return to work.

In a record dated June 2, 2014, Dr. T discussed the April 22, 2014, MRI, and noted that the claimant "may have an occult medial meniscal tear as he certainly has symptoms," and recommended that the claimant should have a second MRI to rule out a medial meniscus tear. In a record dated July 28, 2014, after receiving the July 22, 2014, MRI revealing the radial-oblique tear, Dr. T recommended a partial medial meniscectomy. In a record dated September 26, 2014, Dr. T noted that "I believe [the claimant's] injury was related to his workman's compensation injury not seen on the first MRI" and that the claimant's injury "worsened over a period of time and seen on his second MRI scan." In a letter dated September 25, 2014,¹ Dr. T states again that "I believe [the claimant's] injury is related to his workman's compensation injury not seen on the first MRI scan or worsened over a period of time and seen on his second MRI scan." None of Dr. T's records explain how the compensable injury caused a left knee radial-oblique tear of the medial meniscus.

Dr. A, the designated doctor appointed to determine MMI, IR, and the claimant's ability to return to work, examined the claimant on August 5, 2014. Dr. A noted the July 22, 2014, MRI revealing the radial-oblique tear, and determined that the claimant has not reached MMI because "[a] new MRI [dated July 22, 2014] indicates [r]adial-oblique tear body/posterior horn medial meniscus. This was not visualized on the [April 22, 2014] MRI." Dr. A does not explain how the compensable injury caused a left knee radial-oblique tear of the medial meniscus.

There is nothing in the evidence, including the records from Dr. T and Dr. A, that explains how the compensable injury caused a left knee radial-oblique tear of the medial meniscus.

(Dr. Te) was appointed by the Division to determine the extent of the claimant's compensable injury. Dr. Te examined the claimant on October 7, 2014. In her report of that same date Dr. Te noted that the April 22, 2014, MRI scan taken two weeks after the injury showed no medial meniscus tear, and that the July 22, 2014, MRI scan taken three months after the injury did show the medial meniscus tear. Dr. Te opined that due to the timeline of the appearance of the radial-oblique tear of the medial meniscus, the tear was in all medical probability not related to the mechanism of injury.

¹ We note that the letter from Dr. T does not contain the entire date of the letter; however, the claimant's exhibit list shows that Dr. T's letter is dated September 25, 2014.

The hearing officer found that Dr. Te's opinion was contrary to the greater weight and degree of the credible evidence. However, given that there is nothing in the evidence, including the records from Dr. T and Dr. A, that explains how the compensable injury caused a left knee radial-oblique tear of the medial meniscus, the hearing officer's finding is so against the great weight and preponderance of the evidence as to be clearly wrong and manifestly unjust. Accordingly, we reverse the hearing officer's determination that the compensable injury of [Date of Injury], extends to that condition, and we render a new decision that the compensable injury of [Date of Injury], does not extend to a left knee radial-oblique tear of the medial meniscus.

The true corporate name of the insurance carrier is **JEFFERSON COUNTY (a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**JEFF BRANICK, COUNTY JUDGE
JEFFERSON COUNTY COURTHOUSE
1149 PEARL STREET
BEAUMONT, TEXAS 77701.**

Carisa Space-Beam
Appeals Judge

CONCUR:

Cristina Beceiro
Appeals Judge

Margaret L. Turner
Appeals Judge