

APPEAL NO. 151407
FILED AUGUST 11, 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 April 27 and June 29, 2015, in Fort Worth, Texas, with (hearing officer) presiding as hearing officer. The hearing officer resolved the disputed issues by deciding that: (1) the (date of injury), compensable injury does not extend to the cervical disc bulge at C5-6, left shoulder full thickness tear of the distal supraspinatus tendon and tendinitis with impingement, post-traumatic headaches, lumbar sprain/strain, and right knee sprain/strain; (2) the appellant (claimant) reached maximum medical improvement (MMI) on February 20, 2014; and (3) the claimant's impairment rating (IR) is four percent. The claimant appealed, disputing the hearing officer's determinations of the extent of the injury, MMI, and IR, contending that the determinations are so against the great weight and preponderance of the evidence as to be clearly wrong and manifestly unjust. The respondent (carrier) responded, urging affirmance of the disputed determinations.

DECISION

Affirmed in part and reversed and rendered in part.

The parties stipulated that on (date of injury), the claimant sustained a compensable injury and the accepted compensable injury is a right shoulder strain, laceration of the forehead, cervical strain, right elbow strain, and right wrist strain. The claimant testified he fell off of a table when installing a shelf and hit his head on a stove, landing on his right side. The medical records in evidence reflect that the claimant received several stitches for his forehead laceration.

EXTENT OF INJURY

That portion of the hearing officer's determination that the (date of injury), compensable injury does not extend to the cervical disc bulge at C5-6, left shoulder full thickness tear of the distal supraspinatus tendon and tendinitis with impingement, lumbar sprain/strain, and right knee sprain/strain is supported by the evidence and is affirmed.

The hearing officer determined that the (date of injury), compensable injury does not extend to post-traumatic headaches. As previously noted the carrier accepted a forehead laceration as part of the compensable injury and it was undisputed that the claimant fell striking his head causing the laceration. The medical records in evidence document that the claimant had a 5 cm laceration on the right side of his forehead and

complained about his head. Numerous medical records in evidence document the claimant's headaches.

In reviewing a "great weight" challenge, we must examine the entire record to determine if: (1) there is only "slight" evidence to support the finding; (2) the finding is so against the great weight and preponderance of the evidence as to be clearly wrong and manifestly unjust; or (3) the great weight and preponderance of the evidence supports its nonexistence. See *Cain v. Bain*, 709 S.W.2d 175 (Tex. 1986).

Under the facts of this case as discussed above, the hearing officer's determination that the compensable injury does not extend to post-traumatic headaches is so against the great weight and preponderance of the evidence as to be clearly wrong and manifestly unjust. Accordingly, we reverse that portion of the hearing officer's determination that the compensable injury of (date of injury), does not extend to post-traumatic headaches and render a new decision that the compensable injury of (date of injury), does extend to post-traumatic headaches.

MMI/IR

The hearing officer's determinations that the claimant reached MMI on February 20, 2014, and the claimant's IR is four percent as certified by the designated doctor are supported by sufficient evidence and are affirmed. We note that the designated doctor stated when discussing the claimant's MMI date that on February 20, 2014, the claimant's headaches were almost gone. The designated doctor further stated in part that on that date the headache symptoms were stable and the forehead laceration had healed. The designated doctor assessed zero percent impairment for the head. The four percent impairment was based on loss of range of motion of the right shoulder.

SUMMARY

We affirm that portion of the hearing officer's determination that the compensable injury of (date of injury), does not extend to the cervical disc bulge at C5-6, left shoulder full thickness tear of the distal supraspinatus tendon and tendinitis with impingement, lumbar sprain/strain, and right knee sprain/strain.

We affirm the hearing officer's determination that the claimant reached MMI on February 20, 2014.

We affirm the hearing officer's determination that the claimant's IR is four percent.

We reverse the hearing officer's determination that the compensable injury of (date of injury), does not extend to post-traumatic headaches and render a new decision that the compensable injury of (date of injury), does extend to post-traumatic headaches.

The true corporate name of the insurance carrier is **INDEMNITY INSURANCE COMPANY OF NORTH AMERICA** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
1999 BRYAN STREET, SUITE 900
DALLAS, TX 75201-3136.**

Margaret L. Turner
Appeals Judge

CONCUR:

Veronica L. Ruberto
Appeals Judge

Carisa Space-Beam
Appeals Judge