

APPEAL NO. 151639
FILED OCTOBER 8, 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 July 20, 2015, in Denton, 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 medial and lateral meniscus tears and chondromalacia of the patella of the left knee.

The appellant (carrier) appealed that portion of the hearing officer's determination that the compensable injury of (date of injury), extends to chondromalacia of the patella of the left knee, contending that the evidence is insufficient to establish causation between the compensable injury and this condition. The respondent (claimant) responded, urging affirmance of that portion of the hearing officer's determination.

The hearing officer's determination that the compensable injury of (date of injury), extends to medial and lateral meniscus tears has not been appealed and has become final pursuant to Section 410.169.

DECISION

Reversed and rendered.

The parties stipulated that the claimant sustained a compensable injury on (date of injury). The claimant testified she twisted her left knee when she slipped on gravel while walking.

The claimant was taken to Texoma Medical Center (TMC) on the date of injury. Records from TMC in evidence show that the claimant was diagnosed with a knee strain and was referred to follow up with (Dr. S).

Medical records from Dr. S in evidence show that he ordered an MRI of the left knee, which was performed on November 6, 2014, and revealed in part chondromalacia of the left knee. After reviewing the MRI Dr. S diagnosed the claimant with chondromalacia of the patella of the left knee, among other conditions. In evidence is an undated letter of causation from Dr. S. Regarding that condition, Dr. S opined that while the claimant's pre-existing arthritis was not caused by the compensable injury, she "could have" sustained that injury at the time of the compensable injury, and that her symptoms present after the injury were not present prior to the injury. Dr. S also opined that "[m]eniscus tears could aggravate an already arthritic knee" and result in the symptoms described by the claimant. Dr. S further noted that the claimant would

benefit from a knee arthroscopy, and recommended surgery based on the acute tear of her meniscus and not on her arthritic condition.

The hearing officer's Discussion makes clear that he relied upon Dr. S's causation opinion in making his determination that the compensable injury extends to chondromalacia of the patella of the left knee.

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 (APD) 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*.

In APD 110054, decided March 21, 2011, the Appeals Panel stated that "[a]lthough the claimed conditions are listed in the record, there is not any explanation of causation for the claimed conditions in the record. We hold that in this case the mere recitation of the claimed conditions in the medical records without attendant explanation how those conditions may be related to the compensable injury does not establish those conditions are related to the compensable injury within a reasonable degree of medical probability."

While Dr. S acknowledged the compensable injury "could have" aggravated the arthritis, Dr. S did not provide any explanation of how the compensable injury caused chondromalacia of the patella of the left knee, and there was no other record in evidence providing the necessary explanation. Because there is no explanation of how the compensable injury caused chondromalacia of the patella of the left knee, the hearing officer's determination that the compensable injury of (date of injury), extends to chondromalacia of the patella of the left knee is not supported by the evidence. Therefore, we reverse that determination and we render a new decision that the compensable injury of (date of injury), does not extend to chondromalacia of the patella of the left knee.

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, TEXAS 75201-3136.**

Carisa Space-Beam
Appeals Judge

CONCUR:

Veronica L. Ruberto
Appeals Judge

Margaret L. Turner
Appeals Judge