

APPEAL NO. 012383  
FILED NOVEMBER 14, 2001

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 August 2, 2001. The hearing officer resolved the disputed issues by deciding that the deceased sustained a compensable heart attack on \_\_\_\_\_; that the deceased was not in a state of intoxication when the compensable injury occurred; that respondent two (subclaimant) is entitled to reimbursement for burial benefits from the appellant (carrier) in the amount of \$5,867.00; and that, since no person was found who would be eligible for death benefits as a beneficiary under the 1989 Act, the death benefits are to be paid to respondent one (SIF). The carrier appealed the hearing officer's determinations that the deceased sustained a compensable heart attack and that the subclaimant is entitled to reimbursement for burial benefits. The SIF and the subclaimant responded, requesting affirmance. There is no appeal of the determinations that the deceased was not in a state of intoxication when the compensable injury occurred or that the carrier is to pay the death benefits to the SIF.

DECISION

The hearing officer's decision is affirmed.

**COMPENSABILITY ISSUE**

The hearing officer did not err in determining that the deceased sustained a compensable heart attack. The hearing officer applied the appropriate statutory provision of the 1989 Act, Section 408.008, in making the determination on compensability. Concerning the carrier's contention, we find that there is no material misstatement of the evidence in the decision. Conflicting medical evidence was presented, and the hearing officer resolved those conflicts in favor of the claimant. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. The hearing officer's decision on the compensability issue is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

**REIMBURSEMENT ISSUE**

The carrier's contention that the hearing officer erred in determining that the subclaimant is entitled to reimbursement for burial benefits from the carrier is predicated on its assertion that the deceased did not sustain a compensable heart attack. Since we are affirming the hearing officer's decision that the deceased sustained a compensable heart attack, we likewise affirm the decision on the reimbursement issue.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **TEXAS WORKERS' COMPENSATION INSURANCE FUND** (effective September 1, 2001, the true corporate name of the insurance carrier is **TEXAS MUTUAL INSURANCE COMPANY**) and the name and address of its registered agent for service of process is

**MR. RUSSELL R. OLIVER, PRESIDENT  
221 WEST 6TH STREET  
AUSTIN, TEXAS 78701**

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Robert W. Potts  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Robert E. Lang  
Appeals Panel  
Manager/Judge