APPEAL NO. 022564
FILED NOVEMBER 20, 2002

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 September 11, 2002. The hearing officer determined that the respondent (claimant) sustained a compensable injury on _____, and had disability from March 24, 2002, through the date of the hearing. The appellant (self-insured) appeals these determinations. The claimant urges affirmance of the hearing officer's decision.

DECISION

We affirm.

This pivotal issue in this case is whether the claimant was acting in the course and scope of her employment at the time she was involved in a motor vehicle accident, which took place while claimant was traveling to a seminar in another town. The self-insured contends that the hearing officer erred in finding that the claimant was on a special mission at the time of the accident. The self-insured argues that the determinations that the claimant sustained a compensable injury and had disability, which are predicated on the course and scope finding, are erroneous as well.

The burden of proof is on the claimant to prove that an injury occurred within the course and scope of employment. Service Lloyds Insurance Company v. Martin, 855 S.W.2d 816 (Tex. App.-Dallas 1993, no writ); Texas Employers Insurance Association v. Page, 553 S.W.2d 98 (Tex. 1977). Section 401.011(12) provides, in part, as follows:

> "Course and scope of employment" means an activity of any kind or character that has to do with and originates in the work, business, trade, or profession of the employer and that is performed by an employee while engaged in or about the furtherance of the affairs or business of the employer. The term includes an activity conducted on the premises of the employer or at other locations. The term does not include:
>
> (A) transportation to and from the place of employment unless:
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> (i) the transportation is furnished as a part of the contract of employment or is paid for by the employer;
>
> (ii) the means of the transportation are under the control of the employer; or
>
> (iii) the employee is directed in the employee's employment to proceed from one place to another place[.]

The general rule is that an injury occurring in the use of the public streets or highways in going to and returning from the place of employment is not compensable. American General Insurance Co. v. Coleman, 303 S.W.2d 370 (Tex. 1957). The rule is known as the "coming and going" rule. The rationale of the rule is that "in most instances such an injury is suffered as a consequence of risks and hazards to which all members of the traveling public are subject rather than risks and hazards having to do with and originating in the work or business of the employer." Texas General Indemnity Co. v. Bottom, 365 S.W.2d 350, 353 (Tex. 1963).

The exception to the coming and going rule, where the employee is directed in the employee's employment to proceed from one place to another, has been referred to as the "special mission" exception. *See* Evans v. Illinois Employers Insurance of Wassau, 790 S.W.2d 302 (Tex. 1990) (hereinafter referred to as Evans). If an employee comes within one of the stated exceptions to the general coming and going rule, that employee must still show that the injury occurred within the course and scope of employment. Bottom, *supra*; Texas Workers' Compensation Commission Appeal No. 93151, decided April 14, 1993. The evidence presented was conflicting as to whether the claimant had been directed by her employer to travel to the seminar in question. The record reflects that there was evidence indicating that: (1) the claimant was required by her employer to attend that particular seminar; (2) the seminar was held in another town where claimant did not normally travel and on a day that the claimant normally did not work; (3) the claimant, had she arrived at the intended site, would have been reimbursed for mileage and granted compensatory time for the time she would have spent at the training; and (4) the employer's interest would have been furthered by the claimant's attendance at the training. Given these facts, we cannot agree that the hearing officer erred in finding that the claimant was on a special mission at the time of the accident and that she was furthering employer's affairs. This case is distinguishable from cases involving mere travel to an alternate worksite that is in the vicinity of the claimant's normal place of work. *See* Texas Workers' Compensation Commission Appeal No. 010122, decided March 5, 2001. The carrier contends that the claimant was not on a special mission because she "had not previously arrived at one place of employment and then received assignments to proceed to another place." However, the hearing officer could find that claimant had been directed to attend the seminar and she need not have proved that she received the assignment at her place of employment just before traveling. We conclude that the hearing officer's findings of fact relating to compensability and disability are supported by sufficient evidence and are 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).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier (self-insured) is **(SELF-INSURED)** and the name and address of its registered agent for service of process is

IS
(ADDRESS)
(CITY), TEXAS (ZIP CODE).

_____
Judy L. S. Barnes
Appeals Judge

CONCUR:

_____
Elaine M. Chaney
Appeals Judge

_____
Gary L. Kilgore
Appeals Judge