

APPEAL NO. 031819
FILED AUGUST 19, 2003

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 scheduled for February 4, 2003, but was continued and held on May 28, 2003. With respect to the issues before her, the hearing officer determined that the appellant's (claimant) compensable injury of _____, does not extend to and include his post-concussion syndrome, that the claimant reached maximum medical improvement (MMI) on April 16, 2000, with an impairment rating (IR) of zero percent as certified by the designated doctor selected by the Texas Workers' Compensation Commission, and that the claimant did not have disability as a result of his compensable injury. In his appeal, the claimant asserts error in each of those determinations. In its response to the claimant's appeal, the respondent (carrier) urges affirmance

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's compensable injury of _____, does not extend to or include post-concussion syndrome. That issue presented a question of fact for the hearing officer to resolve. From the hearing officer's discussion, it is apparent that she was not persuaded that the claimant sustained his burden of proving that he had post-concussion syndrome as a result of his compensable injury. The hearing officer was acting within her province as the fact finder in so finding. Our review of the record does not reveal that the challenged determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Therefore, no sound basis exists for us to reverse that determination on appeal. Pool v. Ford Motor Co., 715 S.W.2d 629 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer likewise was not persuaded that the claimant had disability as a result of his compensable injury. That issue presented a question of fact for the hearing officer. As the fact finder, the hearing officer was free to reject the claimant's evidence tending to show that he had disability. Nothing in our review of the record reveals that the disability determination is so against the great weight of the evidence as to compel its reversal on appeal. Pool, *supra*; Cain, *supra*.

The claimant's argument that the hearing officer erred in giving presumptive weight to the designated doctor's MMI date and IR is dependent upon the success of his argument that the compensable injury includes the post-concussion syndrome. The designated doctor opined that if post-concussion syndrome was part of the claimant's compensable injury, then the claimant reached MMI on January 7, 2001, with an IR of 19%, but that if that condition was not part of the compensable injury, the claimant reached MMI on April 16, 2000, with an IR of zero percent. Given our affirmance of the

hearing officer's determination that the compensable injury does not include post-concussion syndrome, we cannot agree that the hearing officer erred in giving presumptive weight to the designated doctor's initial report or in adopting the April 16, 2000, MMI date and zero percent IR.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **AMERICAN ZURICH INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**GARY SUDOL
9330 LBJ FREEWAY, SUITE 1200
DALLAS, TEXAS 75243.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Edward Vilano
Appeals Judge