

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F404763

ROBERT HENRY HAYNES, DECEASED, EMPLOYEE	CLAIMANT
FROST OIL COMPANY, INC., EMPLOYER	RESPONDENT
FEDERATED MUTUAL INSURANCE, CARRIER	RESPONDENT

OPINION FILED SEPTEMBER 1, 2005

Upon review before the FULL COMMISSION, Little Rock, Pulaski County, Arkansas.

Claimant represented by HONORABLE EDDIE WALKER, JR., Attorney at Law, Fort Smith, Arkansas.

Respondent represented by HONORABLE ERIC NEWKIRK, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

The claimant appeals from a decision of the Administrative Law Judge filed November 23, 2004.

The Administrative Law Judge entered the following findings of fact and conclusions of law:

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. On July 15, 2003, the relationship of employee-employer-carrier existed between the parties.
3. On July 15, 2003, the claimant earned an average weekly wage of \$494.00.

4. On July 15, 2003, the claimant sustained a compensable injury in the form of heat exhaustion.

5. The claimant has failed to prove by the greater weight of the credible evidence that his employment activities on July 15, 2003, or his resulting compensable heat exhaustion was the "major cause" of his fatal cardiac event or death on July 17, 2003. Thus, this fatal cardiac event would not represent a "compensable injury" or "compensable consequence" sufficient to entitle the claimant to any benefits under the Act.

6. The medical services rendered to the claimant by and at the direction of various physicians at St. Edwards Mercy Medical Center from the time of his presentation at the emergency room on July 16, 2003, until his fatal cardiac event on July 17, 2003, represents reasonably necessary medical services for his compensable heat exhaustion. Pursuant to Ark. Code Ann. §11-9-508, the respondents are liable for the expense of these services, subject to the medical fee schedule established by this Commission.

7. The claimant would not be entitled to any disability benefits provided by the Act for his compensable heat exhaustion.

8. The respondents have denied the occurrence of any type of compensable injury and have controverted this claim in its entirety.

9. As no indemnity benefits or survivor's benefits have been awarded in this claim, no fee can be awarded to the claimant's attorney.

The claimant alleges that he sustained a compensable injury or compensable consequence in the form of a fatal cardiac event that is governed by the Arkansas Workers' Compensation Act, A.C.A. § 11-9-101 et seq. The claimant's alleged injury is, indeed, an injury that is covered by the Act; however, the claimant has failed to establish the elements necessary to prove a compensable injury or a compensable consequence by a preponderance of the evidence.

We have carefully conducted a de novo review of the entire record herein and it is our opinion that the Administrative Law Judge's decision is supported by a preponderance of the credible evidence, correctly applies the law, and should be affirmed. Specifically, we find from a preponderance of the evidence that the findings of fact made by the Administrative Law Judge are correct and they are, therefore, adopted by the Full Commission.

Thus, we affirm and adopt the decision of the Administrative Law Judge, including all findings and conclusions therein, as the decision of the Full Commission on appeal.

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

KAREN H. MCKINNEY, Commissioner

Commissioner Turner dissents.

DISSENTING OPINION

The claimant in this case is the surviving spouse of Robert Henry Haynes, who died on July 17, 2003. It is alleged in this claim that Mr. Haynes' death was caused by a case of heat exhaustion he developed on July 15, 2003, while carrying out his job-related duties.

The respondent controverted this claim in its entirety and argued that the claimant could not establish a compensable injury. Specifically, the respondent contended that there was no evidence that Mr. Haynes sustained heat exhaustion on July 15, 2003, nor could it be proven that the myocardial infarction which he suffered in the early morning

hours of July 17, 2003 were related in any way to any job related activity or event.

After a hearing in this matter, an Administrative Law Judge handed down a decision dated November 23, 2004. The Majority now adopts that decision as their own and finds that Mr. Haynes sustained a compensable injury in the form of heat exhaustion on July 15, 2003. However, the Majority further finds that the cause of Mr. Haynes' death was an acute myocardial infarction which was not related to his heat exhaustion or any other employment related activities. From that decision the claimant filed the present appeal. The respondent did not appeal the Judge's finding of a compensable heat exhaustion injury and contend in their appeal brief that the Judge's decision should be affirmed. In my opinion the claimant's death was job related. For this reason, I respectfully dissent from the Majority's finding that the claimant's death was not job related.

Mr. Haynes' employment involved the delivery of oil products to various clients of his employer. On July 15, 2003, he was assigned the task of setting up an oil storage tank at a remote gas drilling rig in Franklin County. He drove a truck with an oil tank, stand, and oil to the

location. This was a hot, humid day and the task was physically demanding, requiring Mr. Haynes to spend most of the day working in the heat. Apparently, he had some problems with the stand and was forced to return to his place of employment to obtain a second stand.

The claimant testified that Mr. Haynes called her late in the evening and told her that he was not feeling well. She traveled to the respondent's location and arrived there shortly after her husband had returned from his delivery. She further testified that she transported him back home and that he did not appear to be feeling well, and that he told her that he had gotten too hot and had forgotten his water jug.

The decedent was transported to the emergency room of St. Edward Hospital in the early morning hours of July 16, 2003. The emergency room records of that date indicate that he arrived at 3:35 a.m. and reported that he was having severe pain throughout his body but most particularly in his chest. At the emergency room he came under the treatment of Dr. M.C. "Rick" Martin, who diagnosed Mr. Haynes as suffering from heat exhaustion and prescribed him pain medication and intravenous fluid. Mr. Haynes

underwent an EKG but no specific acute abnormalities were noted.

Mr. Haynes improved during July 16th. On that date he was seen by Drs. Steven Manus, a cardiologist. In a report dated July 16, 2003, Dr. Manus reviewed Haynes' history of heat exhaustion and noted that he, in the past, had undergone two negative stress tests. He also noted a history of hypertension (high blood pressure) and the possibility for coronary disease. However, Dr. Manus also found that Mr. Haynes' heart otherwise appeared to be normal. Dr. Manus discussed the possibility of an angiogram with the claimant and Mr. Haynes in order to rule out possible disease. Mr. Haynes remained hospitalized at that time.

The facts surrounding Mr. Haynes' death were set out in a Discharge/Death Summary Report prepared by Dr. Martin, dated July 17, 2003. According to this report, Dr. Martin was summoned by the hospital nurses at approximately 4:05 a.m. and was told that Mr. Haynes was nauseated. Dr. Martin prescribed medications and directed tests be started. At approximately 4:45 a.m., the report notes that Mr. Haynes sat up in bed and reportedly said,

"oh, this is it" and fell over. The hospital staff was unable to revive Mr. Haynes and he was pronounced dead at 6:30 a.m.

The Administrative Law Judge, whose decision the Majority now affirms, correctly noted that in order to prevail in her claim, the claimant must establish, by a preponderance of the evidence, that the major cause of Mr. Haynes' cardiac arrest and resulting death was either a compensable consequence of his heat exhaustion or some other job related exertion. But, I disagree with the Majority's conclusion that Mr. Haynes' heat exhaustion was not the major cause of his cardiac arrest.

Both Dr. Manus and Dr. Martin provided medical reports regarding the cause of Mr. Haynes' coronary failure. In a letter dated April 21, 2004, Dr. Manus discussed the physical effects of heat exhaustion and then made the following statement:

It is known that excess physical and mental stress can precipitate morbid and even mortal cardiovascular events as well as be a causation. Mr. Haynes had not been symptomatic until the day of his busy and strenuous workload, diffuse diaphoresis, little food, little hydration, and later experienced diffuse muscle and body aches and cramps, and later, lower sternal and epigastric

discomfort. Having no preexisting symptoms and with the initiation of his symptoms after strenuous work, the close temporal relationship between the work and his death do suggest that the strenuous work was at least a precipitating cause or even a causal factor in Mr. Robert H. Haynes' death.

Dr. Martin was also asked to provide information regarding the cause of the claimant's death and he, in a letter dated May 14, 2004, also opined that Haynes' death was related to his heat exhaustion:

With regard to your second question, I believe within a reasonable degree of medical certainty, it is likely that Mr. Haynes' myocardial infarction and subsequent death was a probable complication of his heat exhaustion. He also had a history of high blood pressure, which was already being treated at the time of his admission, and his blood pressure was basically normal on admission.

Certainly, elevated blood pressures over long periods of time do also contribute to the possibility of cardiac disease, but I believe in this situation the excessive stress of the heat exposure probably contributed to the onset of his cardiac disorder.

The Majority rejects both of the doctors' opinions. In regard to Dr. Manus' statements, the Majority relies on the Administrative Law Judge's decision, which states that it

was not within a reasonable degree of medical certainty. Dr. Martin's opinion was dismissed because "such an opinion would not be consistent with the other evidence presented."

The Administrative Law Judge then reviewed the result of the EKG and other studies done on Mr. Haynes during his hospitalization and reached the conclusion, based upon his evaluation of the medical evidence, that Mr. Haynes' heart failure was primarily the result of his own physical ailments, most notably his high blood pressure. In my opinion, it is erroneous for the Administrative Law Judge and Majority to substitute their own medical knowledge for that of trained medical professionals.

While I agree that Dr. Manus' opinion does not use the "magic" words "within a reasonable degree of medical certainty," that does not mean that it can be entirely ignored. For example, Dr. Manus does state with certainty that physical and mental stress can precipitate cardiovascular events. His review of the severe degree of Mr. Haynes' heat exhaustion is also based upon objective facts taken from medical records. Dr. Manus also notes that his examination of the claimant and review of Haynes' past medical records indicates that he had no preexisting

symptoms and that the initiation of symptoms after strenuous work and the close temporal relationship provided a connection between the heat exhaustion and Mr. Haynes' death. Dr. Martin's report is even clearer in this regard as he states with considerable certainty his belief that Haynes' heat exhaustion was the causative factor in the death of Mr. Haynes.

I also dispute the Administrative Law Judge's analysis of Mr. Haynes' test results. The Administrative Law Judge concludes that the essentially normal results from the EKG, echocardiogram, carotid doppler and similar tests performed at the time of his hospital admission were an indication that his heart failure was unrelated to his heat exhaustion. However, it appears to me that these suggest that there were no serious abnormalities in Mr. Haynes' cardiovascular system prior to his compensable heat exhaustion incident. I find this compelling evidence that, if not for his job related accident, Mr. Haynes would not have suffered a fatal cardiac arrest. As Dr. Manus clearly stated, heart failure such as that suffered by the claimant, can be precipitated by the type of physical stress resulting from heat exhaustion. Additionally, Dr. Martin's opinion was

that the heat exhaustion was a precipitating factor that brought about the claimant's death. This is evidenced by the Death Certificate Dr. Martin prepared in which he listed heat exhaustion as a significant contributing factor.

Oddly enough, the Administrative Law Judge, in reviewing the Death Certificate, interpreted it to mean that Dr. Martin initially believed that the heat exhaustion was not a causative factor in Mr. Haynes' death. This interpretation appears to be an attempt to justify disregarding Dr. Martin's later opinion. However, I do not see any difference between the doctor listing heat exhaustion as the "significant contributing factor" on the Death Certificate and later saying that "Mr. Haynes' myocardial infarction and subsequent death were complications of his heat exhaustion." If anything, the Death Certificate indicates that Dr. Martin was focused on the effects of Mr. Haynes' heat exhaustion even at the time of his death, and it reinforces the conclusion that, but for the physical stress caused by heat exhaustion, Mr. Haynes would not have suffered a fatal myocardial infarction on July 17, 2003.

The Workers' Compensation Act places the burden on the Commission to resolve disputed medical issues and to resolve conflicts between medical opinions. However, the statute does not magically confer upon us medical knowledge and expertise superior to that of recognized, licensed medical professionals. It is one thing to review the conflicting opinions of two doctors and reach a decision as to which opinion is more compelling and more based in fact. It is something else to decide that two physicians, who have been educated in the medical science and licensed by this State to practice their profession are not as competent at interpreting medical evidence as this Commission or its Administrative Law Judges. While it may be true that there are some cases in which an uncontradicted medical opinion should be disregarded or given little weight, that is something that should only be done where the opinion is based upon erroneous information or is in some other way clearly flawed. Here, there is no indication that Dr. Manus or Dr. Martin had an inaccurate history, misunderstood any basic facts, or in some other way were confused or in error. The Administrative Law Judge simply concludes that his evaluation of the claimant's medical evidence was superior

to that of experienced medical doctors. Just as doctors should not practice law and interpret the Workers' Compensation Act, we should not attempt to practice medicine and evaluate complex medical evidence and disregard expert medical opinions.

For the reasons set out above, I believe that the Majority's holding that Mr. Haynes' death was not a compensable consequence of his heat exhaustion is in error. I would find that the claimant met her burden of proof of establishing that the major cause of her husband's fatal cardiac arrest was his job related heat exhaustion and that she is entitled to receive dependancy benefits, funeral expenses, medical expenses related to the attempts to resuscitate her husband, and all other appropriate benefits. For these reasons, I respectfully dissent.

SHELBY W. TURNER, Commissioner