

2016 IL App (3d) 150459WC-U

NO. 3-15-0459WC

Order filed July 15, 2016

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IN THE
 APPELLATE COURT OF ILLINOIS
 THIRD DISTRICT
 WORKERS' COMPENSATION COMMISSION DIVISION

KEYSTONE STEEL & WIRE,)	Appeal from the
)	Circuit Court of
Appellant,)	Peoria County.
)	
v.)	No. 14-MR-00449
)	
THE ILLINOIS WORKERS' COMPENSATION)	Honorable
COMMISSION, <i>et al.</i> (Gordon Rohrer,)	James A. Mack,
Appellee).)	Judge, presiding.

JUSTICE STEWART delivered the judgment of the court.
 Presiding Justice Holdridge and Justices Hoffman, Hudson, and Harris concurred
 in the judgment.

ORDER

¶ 1 *Held:* The Commission's findings that the claimant suffered a repetitive trauma accident arising out of and in the course of his employment and that the claimant's conditions of ill-being are causally related to repetitive job duties are not against the manifest weight of the evidence.

¶ 2 The claimant, Gordon Rohrer, worked as a forklift operator for the employer, Keystone Steel & Wire. The claimant had preexisting osteoarthritis in both hips and claimed that bumping and jarring from driving forklifts aggravated or accelerated the arthritic conditions of his hips that resulted in bilateral hip replacements. On July 15, 2008, he filed a claim under the Illinois Workers' Compensation Act (Act) (820 ILCS 305/1 *et. seq.* (West 2008)), alleging work-related repetitive trauma injuries to both legs, hips, and person-as-a-whole with a manifestation date of July 7, 2008. The arbitrator found that the claimant failed to prove that his work activities aggravated his preexisting condition. The claimant sought review of the arbitrator's decision before the Illinois Workers' Compensation Commission (Commission). The Commission, with one Commissioner dissenting, reversed the arbitrator's decision, finding that the claimant "sustained an accident arising out of and in the course of his employment through his repetitive job duties." The Commission found that the claimant's need for bilateral hip replacement surgery was causally related to the work-related repetitive trauma. The Commission awarded the claimant temporary total disability benefits, medical expenses, and permanent partial disability benefits based on a finding that he sustained a 45% loss of use of each leg. The employer filed a petition for judicial review in the circuit court of Peoria County. The circuit court entered a judgment confirming the Commission's decision, holding that the decision was not against the manifest weight of the evidence. The employer now appeals the circuit court's judgment. For the following reasons, we affirm.

¶ 3

BACKGROUND

¶ 4 The claimant's claim is based on alleged work-related repetitive trauma that aggravated and/or accelerated preexisting osteoarthritis in both of his hips. His job duties did not require him to stoop, kneel, or crawl, and he rarely climbed or crouched. However, he testified that he drove forklifts for the employer since 1968 and that the forklifts were rough to drive. According to the claimant, the seat on a forklift was four feet off the ground and did not have a lot of give. The forklifts had no shock absorbers, and the tires were made of hard rubber. He testified that there were holes everywhere in the employer's floor and that the forklifts' seats would bottom out when he drove over the holes. He drove a forklift for six and a half hours a day, and he testified that there was never a day when his forklift did not bottom out during his 40-year career. He agreed that he inspected his forklift prior to each shift for the purpose of noting any needed repairs.

¶ 5 The claimant testified that on an average day he had a lot of leg pain due to the shock on his body from driving over rough surfaces. He stated that his leg pain started in 2003 and progressively worsened. In 2006, he began noticing issues with his hips at work. He acknowledged that he was aware that he was to report any accidental injuries on the job and that he did not report any accidental injury when he began experiencing leg and hip pain.

¶ 6 The employer's foreman of vehicle repairs, Mike Fink, testified that he had been employed with the employer for 37.5 years. He testified that the claimant never reported any hip issues, that his forklift seat was bottoming out, or that the forklifts were causing him leg or hip pain. According to Fink, employees are supposed to fill out a vehicle

inspection report prior to their shift. If there is a defect, the employee has the right to take the forklift out of service, and a different forklift would be provided to the employee. Fink testified that from 1986 until 2006, the employer's forklifts had suspension seat assemblies for the operators' comfort and safety. After 2006, the employer began using forklifts with full suspension seats that increased the drivers' comfort. According to Fink, the employer purchased top-of-the-line seats for its forklifts.

¶ 7 Fink stated that the forklifts traveled at the employer's plant over paved blacktop or steel plate laid onto concrete. He testified that there were various routes a forklift driver could take to get around the plant. Fink believed that if there was an area that was bumpy, it was the driver's obligation to report the area. If reported, the area would have been block off and repaired. In addition, his department would have fixed a forklift's seat if a driver reported that it was bottoming out.

¶ 8 The claimant's medical records showed that on June 5, 2003, he sought medical treatment for leg pain that was mostly in his thighs. He reported that it hurt to raise his legs and walk. A physical examination revealed decreased range of motion in his knees and hips. July 7, 2003, X-rays of the claimant's bilateral hips revealed "[n]arrowing of both hips consistent with degenerative arthritic change."

¶ 9 Medical records show that on May 14, 2004, the claimant again sought treatment for bilateral leg pain; on June 18, 2004, he had decreased range of motion of the bilateral hips; on January 7, 2005, he had no range of motion of the hips; and on February 24, 2006, he complained of bilateral pain and reported that he could not spread his legs to the side.

¶ 10 The claimant was referred to an orthopedic surgeon, Dr. Edward Smith, who he saw on March 15, 2006. Dr. Smith's examination of the claimant's hips revealed some discomfort with internal rotation and somewhat limited external rotation. Dr. Smith noted that X-rays of the bilateral hips revealed moderately severe degenerative joint disease in both hips with complete loss of the joint space over the lateral weight bearing area. Dr. Smith's impression was bilateral degenerative joint disease of both hips. The doctor believed that the claimant was not symptomatic enough to warrant total hip replacement at that time. He prescribed physical therapy.

¶ 11 The claimant testified that he told Dr. Smith that he had pain in his thighs for a couple of years and that it was interfering with his ability to ride a motorcycle. He did not mention that his work duties were causing his symptoms. The claimant treated with Dr. Smith again on May 18, 2006. Dr. Smith administered corticosteroid injections into both hips, which provided only temporary relief, and the claimant's post-operative diagnosis was bilateral degenerative joint disease.

¶ 12 On May 24, 2007, the claimant saw his family doctor, Dr. Antoine Dawalibi, with complaints of bilateral leg pain. Dr. Dawalibi's office notes state that the claimant "denied any trauma or any unusual posture or position which may have brought it on." The claimant did not tell Dr. Dawalibi that he experienced hip pain while driving forklifts and did not mention that the forklift seats bottomed out. X-rays dated May 24, 2007, showed advanced arthritis in both hips. The doctor's assessment was multiple symptoms and signs possibly pointing to multiple etiologies including degenerative joint disease of the back, restless legs, and faulty biomechanics of the feet.

¶ 13 The claimant returned to Dr. Dawalibi on June 15, 2007, with continued complaints of hip pain. Dr. Dawalibi's examination revealed decreased range of motion of both hips. The doctor diagnosed the claimant with "[a]dvanced and severe degenerative joint disease of the hips." He noted that the claimant likely needed a surgical consultation, which the claimant declined at that time. The claimant followed up with Dr. Dawalibi on April 11, 2008, and the doctor recommended total hip arthroplasty. According to Dr. Dawalibi's notes, the claimant elected to wait on the surgery and requested hip injections. The doctor's diagnosis was osteoarthritis of the hips.

¶ 14 On May 22, 2008, the claimant saw orthopedic surgeon, Dr. Ted Maurer, who concentrates in hip and knee replacements. In giving his medical history, the claimant marked "No" with respect to work-relatedness of his pain. He testified that he thought the question was asking whether he had a sudden accident at work, such as hitting a pole, and he had not been in such an accident. Therefore, he noted that the pain was not work-related. He also testified that he did not talk about his work much with Dr. Maurer during this first visit.

¶ 15 At the May 22, 2008, examination, the claimant reported a 3-year history of hip pain, left greater than right. Dr. Maurer noted that the claimant had a severe limp and was unable to climb stairs. His examination revealed a significant flexed hip gait bilaterally. X-rays showed "complete obliteration of the joint space, periarticular sclerosis, and osteophyte formation with some degenerative changes throughout the remainder." He diagnosed the claimant with "[s]evere arthritis bilateral hips, left more symptomatic than the right." The doctor discussed bilateral hip replacement, and the

claimant wanted to proceed with the surgeries. According to Dr. Maurer's notes, in discussing hip replacements as an option, the claimant stated that he was going to continue working for about another year, and the doctor cautioned him "as far as the impact or heavy load from work."

¶ 16 The claimant testified that he contacted his attorney after his May 22, 2008, appointment with Dr. Maurer. He testified that it was not until after he spoke with his attorney that he returned to Dr. Maurer to discuss the causal connection of his hip pain. A June 3, 2008, handwritten note in Dr. Maurer's records indicates that the doctor returned a telephone call to the claimant's wife on that day. He informed her that he could meet with the claimant to discuss any causal relationship regarding his hip conditions and that his attorney could then request his medical records.

¶ 17 The claimant saw Dr. Maurer on June 26, 2008. The claimant testified that he described his work duties to the doctor, including the number of years he worked as a forklift driver and the condition of the flooring over which he drove. In his office notes, Dr. Maurer wrote that the claimant felt that his hip condition was work-related because he had been driving a forklift with a bad seat over a very rough surface without air in the tires for 40 years. Dr. Maurer noted that the work-duties were not the sole cause of the claimant's hip arthritis as he performed other activities on his own. However, the doctor noted that the "continued shock to the hip would contribute to the arthritis that he has."

¶ 18 On July 7, 2008, the claimant completed a report of injury, noting that he injured his hips and pelvis as a result of driving a forklift for over 40 years. Samuel Watkins, the claimant's supervisor since 2004, testified that from 2004 to July 6, 2008, the claimant

never told him that his forklift was causing him hip pain or that his forklift seat had been bottoming out. If he had done so, Watkins would have had him fill out an accident report and would have sent him to first aid. The claimant testified that he did not complain to anyone at work about his hip issues because, prior to filling out the accident report, he saw no reason to complain.

¶ 19 On July 31, 2008, at the employer's request, the claimant submitted to an independent medical examination conducted by Dr. Matthew Jimenez, a board certified orthopedic surgeon specializing in hip and pelvic reconstruction. According to the claimant, he spent only 15 minutes with Dr. Jimenez. The doctor diagnosed the claimant with end stage bilateral hip osteoarthritis and opined that it was "in no way" work-related.

¶ 20 Dr. Jimenez testified at the hearing by way of an evidence deposition. He testified that the claimant had a CAM-type impingement in his hips, which is classic for hip arthritis. He explained that a CAM-type impingement causes arthritis and is likely related to a patient's genetics, but the evidence is not clear. He further stated that why a person develops CAM deformity is not necessarily known.

¶ 21 Dr. Jimenez opined that the claimant's work duties did not cause or aggravate his condition. According to the doctor, there was no medical evidence that driving a forklift would cause hip arthritis. The claimant testified that Dr. Jimenez did not ask him any questions about his job duties. Dr. Jimenez testified that how long the claimant drove a forklift and the condition of the surface over which he drove were not relevant "in any way, shape, or form." He testified that the claimant's work duties would not worsen or speed up his disease process. He stated that repetitive loading does not cause arthritis.

Dr. Jimenez noted that the July 7, 2003, X-ray revealed narrowing of both hips, which was consistent with degenerative arthritic changes. He explained that a person's hips are going to wear at a given rate based on the person's age, genetics, and the integrity of his articular cartilage. He stated that the claimant's history was common in people that need hip replacements.

¶ 22 Dr. Jimenez testified that hitting a pothole while driving a forklift would be painful to the claimant and would make his condition hurt; however, it would have no relation to the cause of the arthritis and would not worsen the pathology or speed up the disease process. He agreed that the claimant needed a hip replacement because the joint space was gone, but he believed that the space was gone because of the claimant's genetic predisposition to cartilage wear. He also testified that there was no causal relationship between the claimant's CAM deformity, his job activities, and his need for the hip replacement.

¶ 23 On August 6, 2008, the claimant underwent a left total hip arthroplasty performed by Dr. Maurer. The doctor's post-operative diagnosis was left hip arthritis. On November 5, 2008, he underwent a right total hip arthroplasty performed by Dr. Maurer. The doctor's post-operative diagnosis was right hip arthritis. The claimant followed up with Dr. Maurer on February 10, 2009. The claimant reported that he was doing well and believed that he was ready to go back to work without restrictions. The doctor released him to work without restrictions, and he resumed working full duty until he retired on June 30, 2012.

¶ 24 At his attorney's request, the claimant underwent an independent medical examination conducted by Dr. Joseph Newcomer on May 27, 2011. Dr. Newcomer testified at the hearing by way of an evidence deposition. Dr. Newcomer diagnosed the claimant with status post bilateral hip replacement secondary to osteoarthritis. With respect to causation, he opined that the claimant driving a forklift and sitting in a flexed position for eight hours a day, with the jarring, more likely than not led to femoral acetabular impingement, which led to the development of his degenerative hip disease. In his written report, he wrote that the claimant's job duties:

"more likely than not led to a condition of what we call femoral acetabular impingement. That is where there is excessive strain on the superior anterior aspect of the femoral neck in a flexed position. And I think he probably ultimately developed labral tears as a result of that, which then altered the mechanics of the hips and led to the development of the degenerative arthritis or the osteoarthritis that ultimately required joint replacement. I think there is no question that that which he is describing as his work activities led to this condition which was an aggravating cause in the development of the osteoarthritis."

¶ 25 During his deposition, Dr. Newcomer again opined that the claimant's job duties would have caused an aggravation of his condition of ill-being. According to Dr. Newcomer, the claimant told him that the forklift seats were not shock-absorbed and the surface upon which he drove the forklifts could "become very uneven where there's even two-inch drop-offs where the machine will have to roll over that causing a jarring sensation." He further explained as follows:

"My opinion is based upon part of this history that was taken and I was fairly specific regarding the questions that I was asking of him regarding other events that could have led to the manifestation of this problem that he had developed in both hips. And being *** a board certified twice orthopedic surgeon and knowing hip pathology, knowing the mechanisms that are going to lead to pathologic changes, given consideration there's no family history of joint replacements *** eliminating alcoholism, eliminating steroid use *** really the only thing that he can attribute the onset of his hip pain is sitting in this forklift eight hours a day that has no shock absorption, hard rubber tires, is jarring, I don't think there's any question in my mind what happened to his hips was that he developed femoral acetabular impingement."

¶ 26 Dr. Newcomer testified that the claimant's development of femoral acetabular impingement led to his degenerative hip disease. He opined that the claimant's occupation of over 40 years was at least an aggravation of the condition that ultimately required the replacement of both hips.

¶ 27 On cross-examination, Dr. Newcomer testified that it was possible for an individual of the claimant's age to have hip pain that was just arthritic in nature. He agreed that once an individual has degenerative changes in the hip, they could become symptomatic merely at home while getting up from a chair. He agreed that his diagnosis of osteoarthritis could develop absent any job duties, but he stated that driving a forklift could aggravate the condition. He agreed that he could not point to any findings on the

claimant's X-rays or operative reports that indicated his condition was due to operating forklifts.

¶ 28 Dr. Newcomer reiterated that he based his opinion on the claimant's history that included being on a forklift with hard rubber tires with no shock absorption and sitting in a flexed position. He explained that someone with impingement and a CAM lesion are going to be more symptomatic in that position. He added, "So sitting on the forklift six and a half hours out of a day is certainly something that is going to aggravate this condition of ill-being."

¶ 29 On November 29, 2011, Dr. Maurer authored a report to the claimant's attorney, noting the claimant's severe arthritis of the bilateral hips. With respect to causation, he opined that the claimant's work duties would "lead to a lot of jolting and a lot of shocking to [the claimant's] hip," which would add additional wear on the hip. He believed that the claimant's work duties were not the complete cause of his hip arthritis, but the continued shock to the hip from his work duties "would contribute to his arthritis that he had."

¶ 30 Dr. Maurer testified at the hearing by way of an evidence deposition. He testified that he saw the claimant on referral from Dr. Dawalibi. The claimant gave him a three year history of bilateral hip pain, left greater than right. He testified that X-rays showed that the claimant had a CAM-type anatomy. He explained that a CAM-type anatomy is when the ball of the hip joint is not round and tends to droop forward. When the ball moves in the hip socket, the CAM is not centered and tends to hit the inside of the socket and cause difficulty with the joint. He testified that this anatomy is seen more in people with arthritis and who need hip replacements.

¶ 31 Dr. Maurer testified that he believed that a CAM-type anatomy tends to pitch more in the socket especially in the seated position where the CAM hits the edge of the socket. He believed that this is where the arthritis starts and that people with a CAM-type impingement are slightly more likely to get an injury to the cartilage around the socket. He testified that there was no literature to support this opinion, but that his opinion was based on 25 years of experience.

¶ 32 Dr. Maurer testified that, after he saw the claimant on May 22, 2008, he thought the claimant had severe arthritis of both hips. He noted that the claimant wanted bilateral hip replacements. The doctor opined that a lot of bumping and jarring of the hips would be a contributing factor to the arthritis of the hips but was not the sole cause of the condition. He last saw the claimant on November 10, 2009, after the bilateral hip replacement. At that time, the claimant was doing well and had only an occasional slight ache.

¶ 33 Dr. Maurer opined that any wear and tear on the hip would contribute to the wear and tear arthritis. The wear and tear caused by jarring while driving a forklift would contribute to the accumulated wear and tear that the hips experienced making them arthritic. He further stated that the claimant's work activities might or could have been a cause or an aggravating cause of the necessity of the claimant's bilateral hip replacement.

¶ 34 On cross-examination, Dr. Maurer stated that he had performed around 1500 hip replacements. Of those 1500, less than 10 were due to a single traumatic event. Of the remaining 1490, over 90 percent were due to an arthritic condition with no known cause. He testified that it was not unusual for a 59-year-old person, regardless of his occupation,

to have an arthritic hip that requires hip replacement. He agreed that there were no medical records prior to May 22, 2008, that revealed that the claimant complained of hip pain due to his work duties. He could not point to any specific finding on the May 22, 2008, X-rays that was attributable to the claimant's work duties.

¶ 35 Dr. Maurer admitted that he did not know anything about the suspension system on the forklifts. According to Dr. Maurer, when he first saw the claimant on May 22, 2008, there was no discussion that the hip pain was associated with forklift driving. Dr. Maurer agreed that the first reference of the claimant's condition being work-related was after the claimant met with his attorney.

¶ 36 Dr. Maurer testified that there is no medical literature that indicates that sitting causes a CAM-type deformity to change in any way or that driving a forklift causes or accelerates a degenerative hip in any way. He agreed that the claimant could have needed the hip replacements due to the arthritis in the absence of any job activities. Once arthritis is present, any everyday activity of life could cause the progression.

¶ 37 At the hearing, the claimant testified that he was off work from August 6, 2008, until February 16, 2009. He testified that he was happy with the hip replacements. He no longer has hip pain and can raise his legs and walk. After he returned to work in February 2009, he continued to work as a forklift driver.

¶ 38 At the conclusion of the arbitration hearing, the arbitrator denied the claimant's claim in its entirety. The arbitrator noted that all of the doctors agreed that the claimant's work-related activities did not cause the claimant to have arthritis. Therefore, according to the arbitrator, the question becomes whether the work activities aggravated the

preexisting arthritis in both hips. The arbitrator concluded that, based on the evidence presented, "no aggravation of a preexisting condition is attributable to work activities performed by the claimant." Therefore, the arbitrator found that the claimant "failed to prove that he sustained an accidental injury through repetitive trauma, that arose out of and in the course of his employment, and which may have manifested itself on July 7, 2008."

¶ 39 The claimant sought review of the arbitrator's decision before the Commission. On review, the Commission, with one Commissioner dissenting, reversed the arbitrator's decision and awarded the claimant benefits under the Act. The Commission concluded that the claimant endured repetitive shock from driving forklifts for the employer and that the repetitive shock, at a minimum, exacerbated or accelerated the claimant's preexisting bilateral hip arthritis, which necessitated surgery. The Commission stated that it was persuaded by the opinions of Dr. Newcomer and Dr. Maurer. The Commission cited Dr. Newcomer's opinion that driving a forklift and sitting in a flexed position with the jarring led to femoral acetabular impingement, which led to the development of the degenerative hip disease and necessitated surgery. The Commission also emphasized Dr. Maurer's opinion that a lot of bumping and jarring to the hips would be a contributing factor to the claimant's hip arthritis.

¶ 40 The Commission found Dr. Jimenez' opinion to be unpersuasive, noting that he was not concerned with the surface upon which the claimant drove the forklift; nor did he know the dimensions of the forklift or the speed and duration that the claimant drove the forklift. The Commission found it significant that he was never asked whether a

continuous shock to the hip would accelerate the bilateral hip condition. The Commission noted that Dr. Jimenez also testified that a CAM deformity is thought to be likely related to a patient's generic predisposition. However, the Commission found that this was not necessarily known and that the evidence was not clear. The Commission found it significant that Dr. Jimenez offered no testimony as to whether a person with a CAM deformity would ultimately need a hip replacement absent trauma.

¶ 41 The Commission was not "persuaded by Dr. Jimenez' testimony that, while hitting a pothole would be painful and make his condition hurt, it would not, however, have any relevance to his disease process." The Commission found, "[b]ased on the totality of the evidence *** that [the claimant's] repetitive job duties, at a minimum, exacerbated or accelerated his bilateral hip condition which necessitated the need for surgery."

¶ 42 The Commission found that the claimant proved "that his job duties were repetitive in nature," that "he drove his forklift over a surface that had holes and spots which caused a shock to his hips," and that "[t]hose repetitive shocks, at a minimum, exacerbated or accelerated his bilateral hip condition which necessitated the need for bilateral hip replacement." The Commission, therefore, awarded the claimant permanent partial disability benefits for a 45% loss of use of each leg; temporary total disability benefits for the period of August 6, 2008, through February 15, 2009; and medical expenses in the amount of \$826,000.

¶ 43 The employer filed a petition for judicial review in the circuit court. The circuit court concluded that the Commission's decision was not against the manifest weight of

the evidence and entered a judgment confirming the Commission's decision. The employer now appeals the circuit court's judgment.

¶ 44

ANALYSIS

¶ 45 The issues raised by the employer challenge the Commission's findings that the claimant suffered work-related repetitive trauma and that the repetitive trauma was a causal factor in the resulting conditions of ill-being in his hips that required bilateral hip replacement surgeries. The employer argues that these findings are against the manifest weight of the evidence. We disagree.

¶ 46 To obtain compensation under the Act, the claimant must show, by a preponderance of the evidence, that he has suffered a disabling injury that arose out of and in the course of his employment. *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 203, 797 N.E.2d 665, 671 (2003). To satisfy the arising out of requirement, the claimant must show that the injury has its origin in some risk associated with, or incidental to, the employment to create a causal connection between the employment and the accidental injury. *Id.* at 203, 797 N.E.2d at 672. Even though an employee may have a preexisting condition that may make him more susceptible to injury, recovery for an accidental injury will not be denied as long as it can be shown that the employment was also a causative factor. *Id.* at 205, 797 N.E.2d at 672–73. "Accidental injury need not be the sole causative factor, nor even the primary causative factor, as long as it was *a* causative factor in the resulting condition of ill-being." (Emphasis in original.) *Id.* at 205, 797 N.E.2d at 673.

¶ 47 Whether a claimant's disability is attributable solely to a degenerative process of the preexisting condition or to an aggravation or acceleration of the preexisting condition because of an accident is a factual determination to be decided by the Commission. *Id.* A reviewing court will overturn a Commission's determination of a question of fact only if it is against the manifest weight of the evidence. *City of Springfield v. Illinois Workers' Compensation Comm'n*, 388 Ill. App. 3d 297, 315, 901 N.E.2d 1066, 1081 (2009). A finding of fact is against the manifest weight of the evidence only if the opposite conclusion is clearly apparent. *Id.* A Commission's determination will not be set aside on appeal if there is sufficient factual evidence in the record to support it. *Id.*

¶ 48 "It is within the province of the Commission to resolve disputed questions of fact, including those of causal connections, to draw permissible inferences from the evidence, and to judge the credibility of the witnesses." *National Freight Industries v. Illinois Workers' Compensation Comm'n*, 2013 IL App (5th) 120043WC, ¶ 26, 993 N.E.2d 473. This court will not reject permissible inferences drawn by the Commission simply because different inferences might also reasonably be drawn from the same facts, nor will this court substitute its judgment for that of the Commission on such matters unless its findings are contrary to the manifest weight of the evidence. *Id.* The Commission determines which medical opinion to accept regarding causation, and it may attach greater weight to the treating physician's opinion. *Homebrite Ace Hardware v. Industrial Comm'n*, 351 Ill. App. 3d 333, 340, 814 N.E.2d 126, 133 (2004).

¶ 49 In the present case, the employer argues that the claimant failed to show that the conditions of ill-being in his hips were work-related, rather than the result of the normal

degenerative aging process. In making this argument, the employer discredits the claimant's testimony that his forklift bottomed out daily while driving over uneven surfaces. The employer also emphasizes that the claimant never complained to his supervisor that he experienced hip pain as a result of his job duties and notes that he could have taken a defective forklift out of service if its seat bottomed out and could have reported any defects in the plant's flooring, but he did not do so. The employer highlights evidence that the claimant denied that his hip pain was work-related in giving his medical history to Dr. Maurer in May 2008. It was not until the claimant conferred with his attorney that he returned to Dr. Maurer and asked for an opinion on whether his job duties could have been a causative factor.

¶ 50 The employer argues that all of the medical experts agreed that there was no medical literature associating arthritis or its advancement with a forklift driver's job duties. None of the physicians could point to any finding on an X-ray or in an operative report that showed a change in the claimant's hip structure as a result of his job duties. The physicians all agreed that the arthritic condition could have progressed and resulted in the hip replacements regardless of the claimant's job duties. The employer emphasizes Dr. Jimenez' opinions and discredits the opinions of Dr. Newcomer and Dr. Maurer.

¶ 51 The Commission considered these issues, which go to the weight to be given to the evidence, but still made factual findings in favor of the claimant. Our task on appeal is not to reweigh the evidence, testimony, or conflicting medical opinions; nor is it to second guess the Commission's findings on issues of credibility. Instead, as noted above, our task is to review the record and determine whether there is sufficient factual evidence

in the record to support the Commission's decision, not the arbitrator's. Based on the record before us, we cannot reverse the Commission's decision under the manifest weight of the evidence standard.

¶ 52 It is undisputed that prior to his bilateral hip replacement surgeries, the claimant suffered from severe arthritis in both hips. In addition, the claimant's hips had a CAM-type anatomy, which is a deformity of the hip joint. The claimant testified that when driving a forklift for the employer, he drove over rough surfaces. The forklifts had no shocks, had hard rubber tires, and bottomed out when he drove over the holes. He drove a forklift for six and a half hours a day, and he testified that there was never a day when his forklift did not bottom out during his 40-year career.

¶ 53 The employer presented testimony to dispute the claimant's description of his working conditions, and the employer's argument on appeal emphasizes this contrary testimony. However, it was the Commission's duty to resolve these conflicts in the testimony. After considering the conflicting testimony, the Commission found that the claimant's job duties exposed him to "repetitive shock" and "jarring." The Commission found that "the forklifts did not have a suspension system or shocks, and the tires were made of hard rubber." The Commission found that the ground "over which the forklift drove was rough and contained spots and holes," which caused the forklift to "bottom out" and which caused shock to the claimant's "whole body." These findings are supported by the claimant's testimony, which the Commission found credible.

¶ 54 The employer challenges the Commission's assessment of the claimant's credibility by emphasizing that when filling out a medical history form for Dr. Maurer,

the claimant answered "No" to a question that asked whether his pain was work-related. However, at the hearing, the claimant explained that when he saw the question on the medical history form, he believed that the question was asking whether he had a single identifiable accident at work, such as running into a pole. He had not suffered such an accident; therefore, he marked "No." This evidence does not make any of the Commission's findings contrary to the manifest weight of the evidence.

¶ 55 The employer finds it remarkable that the claimant never asked Dr. Maurer about causation until after he consulted with his attorney. When the claimant first saw Dr. Maurer, he was seeking medical treatment for hip and leg pain. He testified that he did not discuss his work with Dr. Maurer much during this first visit in May 2008. The claimant was a forklift driver untrained in the law. His failure to recognize the importance of causation until after consulting with an attorney is hardly definitive evidence discrediting his testimony, particularly when Dr. Maurer's treatment and surgery recommendation were not based on a causation determination.

¶ 56 With respect to the claimant's credibility, the employer also emphasizes that he never complained to his supervisor that driving a forklift caused him hip pain. The claimant, however, testified that he was "not a complainer" and that he saw no reason to complain to his supervisors or fill out an accident report prior to July 7, 2008. The Commission was entitled to believe his testimony.

¶ 57 Because the claimant's testimony supports the Commission's findings concerning the nature of his work duties, we cannot set those findings aside on appeal without reweighing the conflicting evidence. We cannot reject the Commission's findings that the

claimant's "job duties were repetitive in nature" and that "he drove his forklift over a surface that had holes and spots which caused a shock to his hips." Therefore, we must affirm the Commission's finding that the claimant sustained repetitive trauma that arose out of and in the course of his employment.

¶ 58 The employer also challenges the Commission's finding that the repetitive trauma was causally related to the arthritic conditions in the claimant's hips. In challenging the Commission's finding with regard to causation, the employer promotes Dr. Jimenez' opinions over the opinions of Dr. Newcomer and Dr. Maurer. However, the Commission found the opinions of Dr. Newcomer and Dr. Maurer to be persuasive in concluding that the claimant's work-related repetitive trauma aggravated or accelerated the arthritic conditions of his hips.

¶ 59 On appeal, our task is not to determine whether we agree with the Commission that Dr. Newcomer and Dr. Maurer were more persuasive than Dr. Jimenez. The Commission determines which medical opinions to accept regarding causation. *Homebrite Ace Hardware*, 351 Ill. App. 3d at 340, 814 N.E.2d at 133. Our task is to determine whether the medical evidence upon which the Commission relied, as well as the record as a whole, supports the Commission's finding with respect to causation.

¶ 60 Dr. Newcomer is board certified in orthopedic surgery and has performed thousands of hip replacements. The claimant told Dr. Newcomer about the hard rubber wheels on the forklifts he drove. When asked whether the claimant's work duties contributed to the necessity of the hip surgeries, Dr. Newcomer testified:

"[T]he only thing that [the claimant] can attribute the onset of his hip pain is sitting in this forklift eight hours a day that has no shock absorption hard rubber tires, is jarring. I don't think there's any question in my mind what happened to his hips was that he developed femoral acetabular impingement."

¶ 61 Dr. Newcomer described osteoarthritis as a condition where a person loses the ability to regenerate protective cartilage, so wear and tear makes the cartilage thinner and thinner to the point that there is no protective cartilage and the joint is bone to bone. He opined that driving a forklift and sitting in a flexed position with the jarring led to femoral acetabular impingement, which led to the development of the claimant's degenerative hip disease and necessitated surgery.

¶ 62 When Dr. Newcomer's opinions are considered in light of the Commission's findings concerning the claimant's job duties and work conditions, his opinions clearly support the Commission's findings with respect to causation. The Commission's reliance on Dr. Newcomer's opinion with respect to causation is not against the manifest weight of the evidence.

¶ 63 Likewise, Dr. Maurer is board certified in orthopedics and concentrates in hip replacements. Dr. Maurer opined that a lot of bumping and jarring of the hips would be a contributing factor to the claimant's hip arthritis. He believed that the claimant's job duties were a causative factor. Again, based on the Commission's findings, the claimant experienced bumping and jarring while performing job-related tasks, and Dr. Maurer's opinion supports the Commission's findings with respect to causation.

¶ 64 Dr. Jimenez testified that the claimant's job duties were "in no way" related to the arthritic conditions in his hips, but the Commission was not required to accept his opinion over the conflicting opinions of Dr. Newcomer and Dr. Maurer. In discrediting Dr. Jimenez' opinions, the Commission found it significant that the doctor was not concerned about the nature of the claimant's job duties as a forklift driver. Considering the conflicting medical opinions on the issue of causation, the Commission's finding that Dr. Jimenez' opinions were unpersuasive is amply supported by the evidence.

¶ 65 We will not second guess the Commission's finding that work-related repetitive trauma, at a minimum, accelerated the arthritic conditions in the claimant's hips. The Commission was faced with conflicting medical opinions concerning whether the shock and jarring caused by driving a forklift over rough surfaces could aggravate or accelerate the arthritic conditions in the claimant's hips. One doctor opined that the claimant's job duties were unrelated to the claimant's hip conditions, and two doctors opined that the job-related repetitive trauma was causally related to the hip conditions by accelerating the degeneration of the cartilage in the hips. The doctors explained the basis of their respective opinions. The Commission agreed with the two doctors who opined that work-related repetitive trauma accelerated the osteoarthritis in the claimant's hips. A contrary finding is not clearly apparent from the record. Reversing the Commission on causation would require us to reassess witness credibility and reweigh conflicting medical opinions. The manifest weight of the evidence standard does not allow us to engage in such analysis. Accordingly, we must affirm.

¶ 66

CONCLUSION

¶ 67 For the foregoing reasons, we affirm the judgment of the circuit court that confirmed the Commission's decision.

¶ 68 Affirmed.