

**IN THE COURT OF APPEALS 8/6/96**

**OF THE**

**STATE OF MISSISSIPPI**

**NO. 94-CC-01020 COA**

**OLEN BURRAGE TRUCKING, INCORPORATED AND HOWARD INDUSTRIES,  
INCORPORATED**

**APPELLANTS**

**v.**

**SAMUEL CATCHINGS, SR.**

**APPELLEE**

THIS OPINION IS NOT DESIGNATED FOR PUBLICATION AND  
MAY NOT BE CITED, PURSUANT TO M.R.A.P. 35-B

TRIAL JUDGE: HON. BILLY JOE LANDRUM

COURT FROM WHICH APPEALED: JONES COUNTY CIRCUIT COURT

ATTORNEYS FOR APPELLANTS:

ROBERT D. GHOLSON AND CRAIG ORR

ATTORNEY FOR APPELLEE:

JAMES HIGGINBOTHAM

NATURE OF THE CASE: WORKERS' COMPENSATION: COMPENSABILITY OF A STROKE

TRIAL COURT DISPOSITION: AFFIRMED COMMISSION'S FINDING OF  
COMPENSABILITY

BEFORE THOMAS, P.J., KING, AND SOUTHWICK, JJ.

KING, J., FOR THE COURT:

On May 31, 1991, Catchings, a truck driver employed by Olen Burrage, suffered a stroke after stopping for a meal at a truck stop. An administrative law judge determined that the stroke was compensable and awarded Catchings temporary total disability benefits, permanent total disability benefits, and reasonable medical services and supplies. Because Catchings suffered from a pre-existing hypertensive ailment, the ALJ ordered apportionment of the permanent total disability benefits by fifty percent.

The ALJ's findings were affirmed by the commission. Thereafter, the Circuit Court of Jones County affirmed the commission's order, which affirmed the ALJ's findings, and Olen Burrage appealed contending that the ALJ's finding of compensability was not supported by substantial evidence.

#### ANALYSIS OF THE LAW AND ISSUE

Olen Burrage recognizes that our scope of review on this appeal is limited to a determination of whether the commission's findings of fact and order are supported by substantial evidence. *Marshall Durbin Cos v. Warren*, 633 So. 2d 1006, 1009 (Miss. 1994). However, after recapitulating the testimonies and opinions of the medical experts, Olen Burrage contends that the commission's finding of compensability is erroneous and contrary to the overwhelming weight of the evidence because the medical evidence unequivocally showed that there was no causal connection between claimant's stroke and employment activities. We disagree.

Catchings' treating physician, Dr. Crane, testified that there was nothing in Catchings' activities as a truck driver, which would increase his risk of suffering a stroke, and that Catchings' hypertensive condition significantly contributed to the stroke. Dr. Crane's testimony and opinion was corroborated by the testimony of Dr. Richard Naef, who had examined Catchings at the request of the State Disability Determination Service. Even though Dr. Crane and Dr. Naef discounted Catchings' employment as a contributing cause of Catchings' stroke, they agreed that stress could aggravate a hypertensive condition and result in a stroke.

Catchings' family physician, Dr. Fred McDonnell, testified that factors associated with Catchings' employment, including stress, poor diet, and erratic hours, contributed to the stroke.

Issues with reference to an alleged injury of this type are properly within the province of the medical expert; and where there is a conflict in such evidence, its evaluation and credibility, with reference to the existence, nature and etiology of an injury or disease, are issues for the commission to resolve acting upon such medical testimony. *I.B.S. Mfg. Co. v. Dependents of Cook*, 241 Miss. 256, 266, 130 So. 2d 557, 560 (1961) (employee had a pre-existing heart condition).

The ALJ found that the greater weight of the evidence established that the stress and strain of Catchings' employment contributed to the conditions, which brought about the stroke. Substantial evidence supports this finding. Medical experts agreed that stress could aggravate a hypertensive condition and culminate in a stroke, and Catchings testified that he was stressed by the lengthy periods of hauling. In the absence of any evidence refuting Catchings' contention that he was stressed by the conditions of his employment, we cannot say that the commission's findings were unsupported by substantial evidence.

Therefore, we find that the circuit court correctly affirmed the findings and order of the commission.

We affirm the circuit court's judgment.

**THE JUDGMENT OF THE CIRCUIT COURT OF JONES COUNTY MISSISSIPPI IS AFFIRMED. STATUTORY DAMAGES AND INTEREST ARE AWARDED. COSTS OF THIS APPEAL ARE TAXED TO THE APPELLANTS.**

**FRAISER, C.J., BRIDGES AND THOMAS, P.JJ., BARBER, COLEMAN, DIAZ, McMILLIN, PAYNE, AND SOUTHWICK, JJ., CONCUR.**