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COURT OF APPEALS

In the Matter of the Claim of MOHAMMED TAHER, Respondent,
v.
YIOTA TAXI, INC., et al., Appellants.
and
Workers' Compensation Board, Respondent.

Decided February 21, 2019

Motion for Leave to Appeal: Dismissed on ground that the order appealed from does not finally determine the proceedings.

Discussion: The Employer/Carrier appealed a decision of the Appellate Division that reversed a decision of the Board denying a working claimant the ability to receive a schedule award while classified without reduced earnings. The Appellate Division noted that in this case it has not been determined if the claimant has sustained a loss of wage-earning capacity due to the permanent partial disability. The Appellate Division noted in part, "in the unique circumstance where no initial award is made based on a non-schedule permanent partial disability classification, a claimant is entitled to an SLU award."

Our office's interpretation is that as of this date, it appears the Board has been distinguishing the Taher case as a means of noting a claimant may not receive a finding of a schedule award and be found to have a LWEC arising from the same accident.