

Policy

A worker who has a permanent disability as a result of a work-related accident is entitled to a permanent disability benefit for as long as the permanent disability continues. The permanent disability benefit is based on the worker's pre-injury earnings and degree of disability.

Purpose

The purpose of this policy is to provide guidelines respecting the calculation of permanent disability benefits.

Guidelines

Pre-injury earnings

If a worker's permanent disability is as a result of a work-related accident that occurred prior to April 1, 1985, the pre-injury gross average earnings are based on the worker's gross earnings from the accident employer for 12 months, or any lesser period of time, immediately preceding the accident.

If a worker's permanent disability is as a result of a work-related accident that occurred between April 1, 1985 and January 1, 1990, the pre-injury gross average earnings are based on the worker's daily or hourly rate of pay from the accident employer. In some cases the pre-injury gross average earnings may be based on the gross earnings for one year prior to the accident, see 18-06-01, Calculating Temporary Total Disability Benefits for more information.

Where required, net average earnings (NAE) are determined by deducting from the worker's pre-injury gross average earnings the probable

- income tax
- Canada Pension Plan (CPP) premiums, and
- employment insurance premiums payable by the worker.

Permanent disability benefits are not subject to changes in the worker's net exemption code.

Escalated earnings

If the earnings year is different than the year from which the permanent disability benefit is payable, the gross average earnings are updated to protect them against the effects of inflation. This is called escalation and is done by applying the appropriate indexing factor to the earnings for each indexing date between the earnings date and the date from which the benefit is payable, see 18-01-03, Benefit Dollar Amounts - Accidents before 1998.

Method of calculation

The permanent disability benefit is calculated by multiplying the monthly value of a full permanent disability benefit by the worker's degree of disability.

The monthly value of a full permanent disability benefit for an accident that occurred prior to April 1, 1985 is 75 per cent of the worker's pre-injury gross average earnings. The monthly value of a full permanent disability benefit for an accident that occurred between April 1, 1985 and January 1, 1990 is 90 per cent of the worker's pre-injury NAE.

Example: accident prior to April 1, 1985

Pre-injury gross average earnings of \$1,000 per month

Disability percentage of 10 per cent

$(75 \text{ per cent} \times \text{monthly pre-injury gross average earnings}) \times \text{disability percentage} = \text{monthly benefit}$
 $(\$750) \times 10 \text{ per cent} = \75 per month

Example: accident between April 1, 1985 and January 1, 1990

Pre-injury NAE of \$1,000 per month

Disability percentage of 100 per cent

$(90 \text{ per cent} \times \text{monthly NAE}) \times \text{disability percentage} = \text{monthly benefit}$
 $(\$900) \times 100 \text{ per cent} = \900 per month

Statutory maximum

A worker's pre-injury gross average earnings are subject to the statutory maximum amount of average earnings at the time of the accident. If the worker's gross average earnings exceed this amount, they are generally deemed to be this amount, see 18-01-03, Benefit Dollar Amounts - Accidents before 1998.

Exception: maximum for accidents prior to 1974

For claims with an accident date prior to 1974 where the worker's pre-injury gross average earnings exceed the statutory maximum at the time of the accident, if the accident year and the year from which the permanent disability benefit is payable are different, the WSIB bases the permanent disability benefit on the higher of

- the statutory maximum in effect at the time of the accident escalated to the date from which the permanent disability benefit is payable, and
- the worker's pre-injury gross average earnings escalated to the date from which the permanent disability benefit is payable, subject to the maximum in effect for accidents occurring that year.

Statutory minimum

The permanent disability benefit is subject to the statutory minimum amount of compensation payable. If the permanent disability benefit is lower than the minimum, the WSIB sets the benefit at the minimum.

Annual indexing

On January 1 every year, the WSIB indexes ongoing permanent disability benefits by applying the indexing factor to the amount payable, see 18-01-14, Annual Indexing.

Application date

This policy applies to all decisions made for entitlement periods on or after January 1, 2018, for accidents prior to January 2, 1990.

Document history

This document replaces 18-07-04 dated October 12, 2004.

This document was previously published as:
05-03-05 dated April 22, 2003

References

Legislative authority

Workplace Safety and Insurance Act, 1997, as amended
Sections 102, 111

Workers' Compensation Act, R.S.O. 1990, as amended
Sections 144, 145, 146, 148

Workers' Compensation Act, R.S.O. 1980, as amended
Sections 41, 42, 43, 44, 45(1), (4), 132

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