DISSENTING OPINION OF ACOBA, J.

I disagree with the disposition in this case. I believe the decision extends Tamashiro v. Control Specialist, Inc., 97 Hawai‘i 86, 34 P.3d 15 (2001), beyond the holding in that case. In context, the "work connectedness" statement in Tamashiro was limited to the employee's ability to return to work:

> In this case, the Employer conceded that Tamashiro's injury was compensable. As noted *supra*, the sole issue before the Board was whether Tamashiro was able to resume work between August 4, 1994 and July 15, 1995. As such, issues relating to the work-connectedness of the injury were neither before the Board nor the ICA on appeal.

Id. at 91, 34 P.3d at 21. See also id. at 94, 34 P.3d at 24 (Acoba, J., concurring) ("view[ing] this decision as limited to the question of 'whether [employee] was able to resume work between August 4, 1994 and July 15, 1995'" (quoting id. at 91, 34 P.3d at 21)). Here, the issue related to the nature of the work injury suffered, i.e., whether "the disc protrusion at the L4-5 level was due to progressive degeneration[,]" as the employer's medical expert claimed and the Labor and Industrial Relations Appeals Board (LIRAB) ultimately decided, or whether the onset of the employee's condition, previously asymptomatic, was caused by the disc protrusion resulting from lifting a hundred pounds, as the employee's expert contended. Preeminently, this is the type of case to which the presumption in Hawai‘i Revised Statutes ("HRS") § 386-85 (1993) was intended to apply. HRS § 386-85(1) "creates a presumption in favor of the claimant that the subject

injury is causally related to the employment activity." Chung v. Animal Clinic, Inc., 63 Haw. 642, 650, 636 P.2d 721, 726-27 (1981) (footnote omitted). Thus, as opposed to the majority's position, I believe the presumption does apply to the dispute in this case.

In applying the presumption, "[t]he primary focus of medical [evidence] for the purposes of determining legal causation should be whether the employment situation in any way contributed to the employee's injury." Id. at 652, 636 P.2d at 728 (citation omitted) (emphasis added). Thus, where "there is a reasonable doubt as to whether an injury is work-connected, it must be resolved in favor of the claimant." Id. at 651, 636 P.2d at 727 (citing Akamine v. Hawaiian Packing & Crating Co., 53 Haw. 406, 409, 495 P.2d 1164, 1166 (1972)). See also Survivors of Timothy Freitas, Deceased v. Pacific Contractors Co., 1 Haw. App. 77, 85-86, 613 P.2d 927, 932-33 (1980) (holding that "the [Appeals] Board's conclusion[] [was] supported by substantial evidence which [left] no reasonable doubt as to whether [the claim] was work connected" (footnote omitted)). I would vacate the amended decision and order and remand the case to the LIRAB with instructions that it set out the principles it applied in view of the presumption. See Igawa v. Koa House Restaurant, 97 Hawaiʻi 402, 410-12, 38 P.3d 570, 578-80 (2001) (Acoba, J., concurring in part and dissenting in part).