

What is Comparative Fault?

I've heard the term *comparative fault*. What does it mean?

You've been in an accident. Maybe it was a car accident, or a slip and fall incident. Maybe you were on someone else's premises, and were injured as a result of their negligence. Whatever it was, under comparative fault law, **even if you were partially to blame for your accident, you are still entitled to compensation.**

Does every state operate under *comparative fault* law?

No, but California does. There are variations of the comparative fault law, too.

Pure Comparative Fault Law

- Since 1975, California has operated under what is called pure comparative fault law. This means, even if you are 99% responsible for the accident, you are still entitled to claim for the 1% of damages. If you were 75% responsible, you are entitled to claim 25%; 40% responsibility would entitle you to claim for 60%, etc. California, Arizona, Louisiana, Kentucky, New Mexico, and Mississippi are all examples of *pure comparative fault* states.

For example: let's say your accident resulted in \$10,000 worth of medical damages. A court jury finds you 30% responsible for the accident, and another party is found 70% responsible. You can recover from that party 70% of the damages: in this instance, \$7000.

Think of it this way: the damages you are entitled to are reduced or increased by the percentage of your fault.

Modified Comparative Fault

Other states operate under what's known as modified comparative fault law. There are two variations: one with a 50% bar, and one with a 51% bar. Utah, Colorado, and Arkansas are all examples of modified comparative fault with a 50% bar. This means, if you get into an accident in Colorado and you are found by a jury to be over 50% at fault, you cannot recover damages. In states which operate under *modified comparative fault* with a 51% bar, such as Hawaii, Iowa, Montana, and Michigan, the same rule applies, but with a 51% cut off.

Contributory Negligence

- Until switching to pure *comparative fault* in 1975, California ruled under contributory negligence. Less common, and far harsher than *comparative fault*, *contributory negligence* prevents a plaintiff from recovering anything from a defendant if they are found to be even 1% at fault for their accident. Alabama, North Carolina, and Virginia are examples of *pure contributory negligence* states. To recover damages in a *contributory negligence* state, a Plaintiff must prove that another party, or parties, was 100% responsible for the accident.

What if multiple parties were to blame for my accident?

Accidents often have multiple causes. In automobile accidents, for example, two or three drivers, construction workers, or the city might all play a part in causing one accident. In this instance, a jury can apportion blame between multiple parties, including the plaintiff, and any number of defendants. Total damages may be collected by any and all of them. This is known as joint or several liability.

How is the fault distribution and percentage of an accident determined?

The fault, and percentage of fault for an accident is determined in court, by judge or jury. This is where a lawyer can be of assistance.

How can we help?

We are P. Rose & Harris Associates: a team of friendly, knowledgeable, and professional lawyers, located in San Francisco, California. We have experience dealing with all kinds of personal injury cases, and are committed to getting you the best possible results. **Even if you believe you were partially at fault for your accident, in many instances, you will still be entitled to recover damages.** We warmly invite you to call us today.