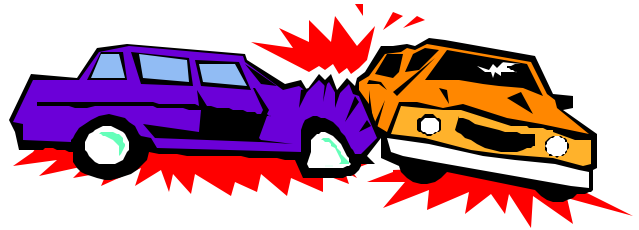


Comparative Negligence

In many states, the damages awarded in an auto accident are based on the comparative fault of the drivers involved. When a driver is legally parked or rear-ended in traffic, the other driver is usually found to be 100% at fault and responsible for all the damages. In other accidents, both drivers are partially at fault and a driver's ability to recover damages depends on the degree of fault that is determined.



Assume Fred is driving straight ahead on a main thoroughfare when Sally runs a stop sign and broadsides Fred's car. Fred may be assigned 10% responsibility for the accident because he could have mitigated the damages if he had been more alert and been driving defensively. In this case, Sally and the company that insures her will pay only 90% of Fred's damages. Fred will be responsible for the balance.

Who determines the proper percentage of fault? In the above case, the company that insures Sally's car will offer to pay Fred 90% of his damages. If Fred does not accept this offer, he has the option of going to court to ask a judge to determine the comparative negligence in the case.

Fred may have one other option. If he carries collision coverage on his vehicle, he can choose to collect under his own insurance policy for the damages. In this case, he will have to pay the deductible under his policy. After his insurance company has paid the damages, it will look to Sally's insurance company for reimbursement. It will also ask for Fred's deductible back. If his insurance company collects 90% from Sally's company, Fred will eventually get 90% of his deductible back. That reimbursement process takes months, sometimes years.