

How Comparative Negligence Affects Your Claim

A Client Guide from the Law Offices of Jason G. Krantz, PC

“Can I still recover if the accident was partly my fault?” In New York, the answer is usually yes. Many injured people assume that any share of blame ends their claim — and insurance companies are happy to let them believe it. This guide explains what partial fault really means for your compensation, and why the fight over percentages matters so much.

New York Follows “Pure” Comparative Negligence

Under New York’s comparative negligence law (CPLR § 1411), your own carelessness does not bar you from recovering damages. Instead, your compensation is reduced by your percentage of fault. That’s true even if you were mostly to blame: a person found 70% at fault can still recover 30% of their damages.

This makes New York one of the more injury-victim-friendly states. Many other states bar recovery entirely once the injured person is 50% or 51% at fault — New York does not.

What Partial Fault Looks Like in Dollars



In each example, the jury values the total damages at \$100,000. The only thing that changes is the share of fault assigned to the injured person — and that share comes directly off the recovery.

How Fault Gets Decided

Fault percentages are determined by a jury (or negotiated in a settlement) based on the evidence. Common factors include:

- **Traffic laws and rules of the road** — speeding, failing to yield, running a light, or distracted driving
- **Police reports, photos, and video** from the scene, nearby businesses, or dashcams

- **Witness statements** and expert accident reconstruction
- **Your own conduct** — for example, crossing mid-block, ignoring a hazard sign, or not wearing a seatbelt
- **Statements you made** at the scene or to insurance adjusters

Good to know: In New York car accident cases, failing to wear a seatbelt can reduce the damages for injuries the seatbelt would have prevented — but it does not erase your claim.

Why Insurance Companies Push Blame Onto You

Because every percentage point of fault reduces what they pay, insurers have a strong incentive to shift blame onto injured people. Adjusters may ask leading questions in recorded statements, point to minor details, or argue that your injuries came from something else. On a \$500,000 claim, moving just 10% of the fault onto you saves the insurer \$50,000.

When More Than One Party Is at Fault

Many accidents involve several responsible parties — two drivers, a property owner and a contractor, or a driver and a municipality. Under New York's Article 16 rules, a defendant found 50% or less at fault is generally responsible only for its proportionate share of non-economic damages such as pain and suffering, while remaining fully responsible for economic damages. Important exceptions apply, including most motor vehicle cases.

Shared Fault and No-Fault Benefits

For car accidents, your basic No-Fault benefits — medical bills and a portion of lost wages up to \$50,000 — are paid regardless of who caused the crash. Comparative fault becomes important when you bring a claim against the at-fault driver for losses beyond No-Fault, including pain and suffering.

The Bottom Line

Being partly at fault doesn't end your case in New York — but it can significantly change what your case is worth. Gathering evidence early, avoiding statements that can be twisted, and having an advocate who can challenge an unfair fault allocation can make a real difference in your recovery.

Partly at Fault? You May Still Have a Strong Claim.

Don't let an insurance company decide how much of the blame is yours. Schedule a consultation with the Law Offices of Jason G. Krantz, PC, and let's protect the full value of your claim.

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