

## **Shared Fault Doesn't End Your Case in New York**

### **How comparative negligence affects accident victims in the Bronx and Westchester County**

After an accident, many injured people immediately wonder whether they have a case. They may feel partly responsible, or they may have been told by an insurance adjuster that their own mistakes disqualify them from recovering compensation. These assumptions often stop victims from pursuing valid claims that could help them rebuild their lives.

Under New York law, however, fault is not a barrier; it is a factor. Even if an injured person shares some responsibility for what happened, they may still be entitled to a significant financial recovery. Understanding how comparative negligence works can make the difference between accepting blame and pursuing justice.

A skilled [NY car accident lawyer](#) can investigate the details, gather evidence, and build a strong case to minimize fault and maximize recovery. What matters most is not whether someone shares blame, but how effectively their lawyer can prove the rest of the story.

#### **The confusion victims face after an accident**

Accidents rarely unfold in neat, one-sided ways. A pedestrian might cross between intersections, a driver might tap the brakes unexpectedly, or a worker might make a split-second decision under unsafe conditions. It's natural for victims to wonder whether these actions mean they "caused" their own injuries.

Insurance companies feed that uncertainty. They often suggest that if a person could have acted differently, they don't deserve compensation. This messaging discourages claims and protects the insurer's bottom line. In reality, even a partially responsible person can still have a strong case, what changes is the amount of compensation they can recover.

For anyone injured in the Bronx or Westchester County, understanding this distinction is essential. The comparative negligence law exists to ensure fairness, and a lawyer's job is to make sure that fairness is fully applied.

#### **What comparative negligence means under New York law**

New York's pure comparative negligence rule, established under state law, allows injured parties to recover damages even when they bear most of the blame. The damages awarded are simply reduced by the person's percentage of fault. If a plaintiff is 30 percent responsible for an accident, they can still recover 70 percent of their damages.

This law sets New York apart from states with “modified” systems that cut off recovery once a victim passes a set fault limit, usually 50 percent. In New York, every case is weighed proportionally, allowing even seriously injured people to seek justice without arbitrary cutoffs.

Because fault percentages directly affect compensation, building a case that accurately reflects each party’s responsibility is one of the most important things a lawyer can do. That’s why experienced representation is critical in shared-fault cases.

### **Examples of shared fault in New York accidents**

Comparative negligence shows up in almost every type of accident claim. Each case has its own mix of decisions, reactions, and hazards that determine who bears responsibility and to what degree.

Common scenarios where shared fault may apply include:

- **Pedestrian accidents:** A person crosses mid-block, but the driver was speeding or distracted.
- **Rear-end collisions:** A front driver brakes suddenly, but the following driver was tailgating.
- **Slip and fall incidents:** A victim slips on ice, but the property owner failed to salt the walkway.
- **Construction injuries:** A worker makes an error, but the employer ignored safety regulations.

These situations are complex, and fault can easily be argued from both sides. A knowledgeable lawyer can uncover details, such as surveillance footage or maintenance logs, that shift responsibility back where it belongs. Victims shouldn’t assume partial fault eliminates their right to recover; the law allows both sides of the story to be heard.

### **How fault is determined and proven**

Determining fault is a technical and strategic process. It involves piecing together facts, timing, and human behavior to tell a clear story of what really happened. Without legal support, injured people often face one-sided investigations led by insurance companies whose main goal is to limit payouts.

Strong evidence can dramatically influence how fault is assigned. Lawyers use a combination of documentation, expert opinions, and analysis to present an accurate picture of responsibility.

Common forms of evidence include:

- **Police reports:** These provide an official version of events but may contain errors that need clarification.

- **Photos and videos:** Scene images, dashcam footage, or nearby surveillance can reveal angles the insurer ignores.
- **Witness statements:** Neutral third-party accounts often carry weight in determining credibility.
- **Expert testimony:** Accident reconstructionists or engineers can scientifically show how and why the event occurred.

A lawyer's role is to gather, interpret, and present this information persuasively. Fault percentages can change dramatically when the right evidence is uncovered and properly framed. Victims benefit most when they have someone protecting their interests from the start.

### **How comparative fault affects compensation**

Once fault is determined, the percentage assigned to each party directly impacts the value of a claim. Compensation in New York personal injury cases typically falls into two categories:

- **Economic damages:** These include medical bills, lost income, and property damage.
- **Non-economic damages:** These cover pain and suffering, emotional distress, and loss of enjoyment of life.

The total award is reduced by the plaintiff's share of fault. Yet even with a reduction, many victims still recover meaningful compensation that helps them pay for treatment, replace income, and regain stability.

This principle also applies in [wrongful death claims](#), where surviving families may recover damages even if their loved one shared partial blame. Because insurers often exaggerate fault to lower settlement values, it's essential to have a lawyer who can push back with evidence and expertise.

### **How insurance companies exploit comparative negligence**

Insurers understand how powerful comparative negligence can be, and they use it to their advantage. Adjusters often take recorded statements, ask leading questions, or reinterpret a victim's words to suggest responsibility. They might even claim a person "admitted fault" for something as small as apologizing after a crash.

These tactics create an uneven playing field. Without representation, injured people may find themselves blamed for far more than is reasonable. A lawyer acts as a shield against these strategies, handling all communication with the insurer and ensuring that the victim's story is told accurately.

At [Giampa Law](#), we regularly see cases where initial fault assessments were inflated by insurance companies and later reduced through diligent investigation. The difference often translates to tens or hundreds of thousands of dollars in compensation.

### **What to do if you're unsure about fault or compensation**

Many accident victims in New York hesitate to contact a lawyer because they believe their role in the accident disqualifies them from financial recovery. That belief often leads to unclaimed compensation and unnecessary hardship.

The truth is that comparative negligence allows victims to be imperfect and still seek justice. The sooner a lawyer reviews the facts, the better the chances of securing evidence before it disappears and countering the insurer's narrative.

For those injured in the Bronx or Westchester County, or families mourning a wrongful death, Giampa Law offers free consultations to explain legal options and potential case value. Fault doesn't erase your rights; it simply makes having a skilled attorney essential. [Contact us](#) today to schedule your consultation and learn how to protect your legal options and right to maximum compensation.