

The difference between the no-fault and at-fault systems can make a big difference in a [car accident](#) claim. For example, it determines who can be compensated for their losses, who is responsible for paying for the damages sustained, and how the litigation process might proceed. North Carolina uses an at-fault system.

In this guide, our [personal injury](#) attorney will discuss the differences between no-fault and at-fault systems, how at-fault laws work in North Carolina, and what it means if you are involved in a car accident.

Understanding No-Fault vs. At-Fault Systems

No-Fault Insurance Systems

In a no-fault insurance system, each driver's insurance company pays for losses under that driver's policy regardless of fault, including medical expenses and other out-of-pocket losses. Because there's little incentive to prove fault, no-fault insurance helps avoid litigation as each driver's insurance company promptly pays the medical expenses and out-of-pocket losses for the other driver without the victim having to prove fault. However, in no-fault states, the ability to sue the other driver for additional damages is often limited, and the law sets a threshold for a lawsuit against the other driver.

Some of the key features of no-fault insurance are:

- **Personal Injury Protection (PIP):** Under a no-fault system, drivers must purchase Personal Injury Protection (PIP) insurance to cover medical expenses, lost wages, and other expenses incurred due to an accident.
- **Limited Right to Sue:** Victims can only sue the at-fault driver if they are severely injured or suffer medical expenses above a certain amount.
- **Faster Compensation:** Since fault is not initially at issue, PIP compensation can be faster.

At-Fault Insurance Systems

On the other hand, in an at-fault system (also called a tort system), the driver who is determined to have caused the accident is typically held responsible for damages. This means that the at-fault driver's insurance company must

cover the costs of medical expenses, property damage and other losses incurred by the victim.

Key features of at-fault insurance include:

Liability: The at-fault driver (or their insurer) is responsible for damages caused by the collision.

The Right to Sue: Victims of accidents can sue an at-fault driver for damages above and beyond insurance coverage.

Determination of Fault: The insurance companies, and potentially the courts, will investigate the accident to determine who was at fault before compensation is distributed.

North Carolina's At-Fault Insurance System

North Carolina and most other states in the US operate on an at-fault insurance system. An at-fault insurance system means that the driver who is legally responsible for causing the wreck is also the person who is financially responsible for the damage caused by the wreck.

Contributory Negligence in North Carolina

One of the most important features of North Carolina's at-fault system is the doctrine of contributory negligence, which prohibits recovery by a plaintiff (i.e., injured party) whose negligence played even a small part in causing the accident. Most states have comparative negligence systems that permit recovery by a plaintiff who is partially at fault, but only if their fault does not reach a certain threshold.

Key Points of Contributory Negligence

It's a Strict Bar to Recovery: In an accident if the jury finds that you were even one percent at fault, you will not recover damages from the other driver.

It Can be Used as a Defense Tactic: Insurance companies frequently invoke contributory negligence to deny claims. This means that your own minor fault may become the basis of a defense designed to reduce or deny your compensation.

The Significance of Legal Representation: Given the strict nature of contributory negligence, having an experienced personal injury attorney is crucial in building a strong case and protecting your right to compensation.

Mandatory Insurance Requirements

In North Carolina, drivers are required by law to carry a specified amount of liability insurance to cover damages caused by an accident. Currently, the minimum insurance requirements are:

- \$30,000 for bodily injury per person
- \$60,000 for bodily injury per accident
- \$25,000 for property damage per accident

The minimums are in place to ensure that there is some amount of coverage that will pay for damages resulting from an accident. However, paying all of the costs associated with a serious accident may require more.

Filing a Claim in North Carolina

After a car accident in North Carolina, you typically have three options for pursuing compensation:

1. **File Against Your Own Insurance:** If you have collision coverage on your car or uninsured/underinsured motorist coverage, you can file a claim on your own insurance policy. Note, however, that your carrier will likely want to get reimbursed by the other driver's insurer.
2. **File a Third-Party Claim:** Depending on the situation, you can file a claim against the other driver's insurer. The insurer will investigate the accident and determine liability, then make an offer.
3. **File a Lawsuit:** If you have not reached a fair settlement through the insurance claims process, you can file a lawsuit against the negligent driver to recover damages.

How North Carolina's At-Fault System Might Affect Your Case

Whether you win your case in North Carolina and how much you win largely depends on whether fault is established. Insurers (and possibly the court) will investigate the accident. During the investigation, various pieces of evidence may prove to be important, such as:

Police Reports

The police report from the accident scene can be a critical piece of evidence in determining fault.

Eyewitness Testimony

Statements from witnesses can provide critical insights into how the accident occurred.

Accident Reconstructionists

In situations where the scene is so complex, an accident reconstruction professional is brought in to analyze it and tell the judge and jury how he or she believes the accident occurred and who was at fault.

Traffic Laws

Violations of traffic laws (e.g., speeding, running a red light, failing to yield, etc.) are strong indicators of fault.

The Impact on Compensation

Because of the contributory negligence rule, you must show that you were not at fault. As discussed above, even the slightest amount of fault on your part will lead to the denial of your claim. Accordingly, it is imperative that you build a strong case and present evidence that firmly places the blame for the accident on the other driver.

If you can establish that the other driver was completely at fault, you may be entitled to compensation for:

- Medical expenses: Hospital bills, surgery, drugs, physical therapy and future medical care resulting from the injury.
- Lost wages: When you have suffered an injury that makes you unable to work, you are entitled to compensation for the loss of earnings you have suffered, whether past or future.
- Property Damage: The cost of repairing or replacing your car and any other property damaged in the accident.
- Pain and Suffering: You may be entitled to an award for the physical and emotional pain and suffering you endured due to the accident.
- Loss of Consortium: If you have been negatively impacted in your relationship with your spouse due to the accident, you could recover damages for loss of companionship and consortium.

The Importance of Working With a Skilled Personal Injury Attorney

Because recovery under North Carolina's law is quite complicated, and because contributory negligence means that an accident victim can potentially lose their entire recovery, it is crucial for injured individuals to work with a personal injury lawyer who has handled numerous accident cases.

What can a personal injury lawyer specifically do for you? A well-versed personal injury lawyer can:

- Investigate the Accident: Gather relevant facts, interview witnesses, and then consult with experts.
- Negotiate with Insurance Companies: Insurance companies are not interested in dispersing large amounts of money if they can avoid it. They will try to settle with you for far less than your case is worth. That said, we cannot stress enough how important it is to protect your legal options and rights.
- Represent You in Court: If warranted, your personal injury attorney can argue your case in court to secure the highest amount of damages allowed by law.

Let Our Personal Injury Attorney Help You Get the Compensation You Deserve

Being involved in a car accident can be a frightening and stressful experience, whether you are a driver, passenger, or a pedestrian. If the accident happens in North Carolina, you especially need to know the difference between a no-fault and at-fault system because strict contributory negligence can significantly impact your ability to recover damages.

If your car accident occurs in an at-fault state like North Carolina, proving the other driver was completely at fault for the accident is critical to your ability to recover from your injuries and losses. If you're involved in an accident in North Carolina, it is important to file your claim quickly and seek advice and representation from an experienced lawyer who will advise you about your legal rights, protect your interests, and seek the best possible resolution to your case.

[Contact](#) us today to discuss.