Car Accidents: Who's At Fault?

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In car accidents, it is often clear that one party is completely at fault. If someone runs a stop sign in broad daylight, with no other extenuating factors, and T-bones another driver who has the green light, there isn't much doubt about fault. But sometimes things aren't as clear. What then? What happens when the at-fault party tries to reduce the liability for his own negligence by accusing the other driver of contributing to the accident? Things can get complicated. But there are a few threshold principles to consider when trying to answer this.

Until 1991, South Carolina recognized a "contributory negligence" rule. If you, as a plaintiff, were responsible, in any way and to any degree, for an accident, you couldn't recover damages. If a jury determined that an accident was just 1% your fault, you were out of luck. That all changed with the Nelson v. Concrete Supply Company decision by the South Carolina Supreme Court in 1991, which changed the state's rule to what's known as a "modified comparative negligence" rule.

Under the new rule, a South Carolina plaintiff who is less than 50% at fault (or exactly 50%) for an accident can still recover damages. However, damages will be reduced by the plaintiff's percentage of fault. If, for example, speeding prevents a plaintiff from being able to avoid an accident, and a jury finds that made him 10% responsible for the resulting accident, his award is reduced accordingly.

Additionally, in South Carolina a negligence claim is not valid unless the negligence "proximately causes" a person's injury. But what is proximate causation and how do you prove it? A negligent act is a proximate cause of an injury only when, without such negligence, the accident would not have occurred or could not have been avoided. This is also known as the "but-for" test – but for what person A did, the accident wouldn't have happened. Or, to flip the script, when there is evidence that the accident would have occurred anyway, then the alleged negligence did not "proximately" cause the accident. No case.

Let's go back to the example of excessive speed. A driver who is going straight through an intersection runs into another driver turning left in front of them. As most of us know, the driver turning left needs to yield and is likely at fault. But, of course, the driver turning left claims the other driver was speeding. Who proximately caused the accident?

Courts have considered this issue in many cases. As a matter of law, if a driver pulls directly in front of another, any excess speeding by the driver going straight could not have caused the accident. This makes sense. While drivers are expected to drive at a reasonable speed, no one

is expected to anticipate that another driver is going to suddenly turn into their lane, and somehow be able to avoid that accident.

Some courts have considered reckless speed as a potential for contributory negligence, but judges have left that question up to the jury to decide. What's important to know is that if you have the legal right to occupy your lane of the road, and if someone turns left in front of you, any slight speeding you may have been doing did not, as a matter of law, "proximately cause" the accident, unless the other side produces evidence to the contrary.

The bottom line is that although the law is clear, facts drive the case. Just keep a proper lookout and be safe. And if something happens anyway, give us a call at Rosen Hagood. We have decades of experience in handling negligence cases in South Carolina, and can help you understand whether or not you have a potentially valid claim.

