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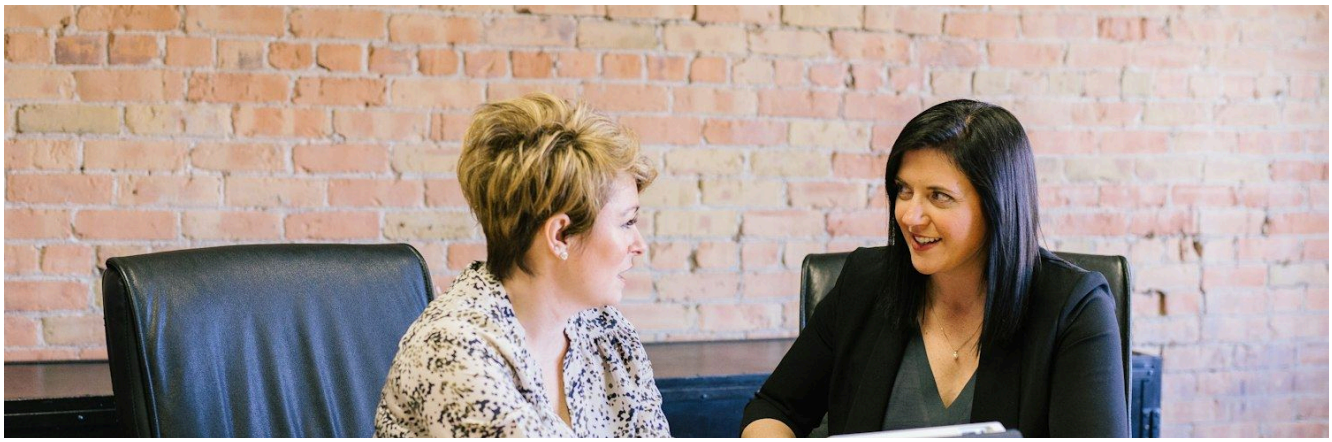
PRACTICE GUIDE · PERSONAL INJURY

Comparative Fault Under Li v. Yellow Cab

Grand Park Law Group · 2026



Plain-Language Summary: If you were partly at fault for your own injury, California does not throw out your case. Your recovery is reduced by your share of fault, but you still recover.

Li v. Yellow Cab Co. (1975) 13 Cal.3d 804 abolished the common-law doctrine of contributory negligence — under which any plaintiff fault, however slight, was a complete bar to recovery — and replaced it with a regime of pure comparative negligence. Under *Li*, the trier of fact assigns percentages of fault to all parties (and, under subsequent doctrine, to nonparty tortfeasors for the limited purpose of comparative apportionment), and the plaintiff's recovery is reduced by the plaintiff's percentage of fault. California's choice of pure (rather than modified) comparative fault means that even a plaintiff found 90 percent at fault recovers 10 percent of the proven damages.

Li and its progeny also restructured the doctrine of assumption of risk. *Knight v. Jewett* (1992) 3 Cal.4th 296 distinguished primary assumption of risk — which operates as a no-duty rule and remains a complete defense in inherently risky activities such as contact sports — from secondary assumption of risk, which is treated as an aspect of comparative fault and merged into the *Li* apportionment. The express-assumption-of-risk doctrine, grounded in contract, survives independently and may be enforced through a properly drafted release, subject to the public-interest limits of *Tunkl v. Regents of University of California* (1963) 60 Cal.2d 92.

Joint and several liability for economic damages survived *Li* but was modified by Proposition 51 (Civ. Code § 1431.2), which provides that liability for non-economic damages is several only, apportioned in direct proportion to the defendant's percentage of fault.

Practice	Personal Injury
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