

An elderly neighbor hired a 17-year-old boy with a reputation for reckless driving to drive the neighbor on errands once a week. One day the teenager, driving the neighbor's car, took the neighbor to the grocery store. While the neighbor was in the store, the teenager drove out of the parking lot and headed for a party on the other side of town. While on his way to the party, the teenager negligently turned in front of a moving car and caused a collision. The other driver was injured in the collision.

The injured driver has brought an action for damages against the neighbor, based on negligent entrustment, and against the teenager. The jury has found that the injured driver's damages were \$100,000, that the injured driver was 10% at fault, that the teenager was 60% at fault, and that the neighbor was 30% at fault for entrusting his car to the teenager.

Based on these damage and responsibility amounts, what is the maximum that the injured driver could recover from the neighbor?

- A. \$100,000.
- B. \$90,000.
- C. \$60,000.
- D. \$30,000.

Explanation:

To determine the amount of compensatory damages a plaintiff may recover in a [negligence](#) action, the following rules apply (unless the question otherwise indicates):

Pure comparative negligence – when the plaintiff's own negligence contributes to his/her harm, the plaintiff's **recovery is reduced** by his/her **proportionate share of fault**

Joint and several liability – when multiple defendants cause the plaintiff indivisible harm, the plaintiff can recover the **total amount of damages** from **any defendant** (who can then sue the others for contribution)

Here, the jury determined that the injured driver sustained \$100,000 in damages and apportioned liability as follows: the driver (10%), the neighbor (30%), and the teenager (60%). The driver's recovery will be reduced by his proportionate share of fault (\$100,000 - \$10,000 = \$90,000) **(Choice A)**. The driver may then recover the \$90,000 from *any* of the defendants, including the neighbor.*

*The neighbor could then bring a contribution action against the teenager for \$60,000—the amount attributable to the teenager's fault.

(Choices C & D) Had the jurisdiction adopted [several liability](#) (not seen here), each defendant would have been liable only for his/her proportionate share of fault. This would mean that the driver could only recover \$30,000 from the neighbor for negligently entrusting his car and \$60,000 from the teenager for his negligent driving (as opposed to recovering the full \$90,000 from either defendant).

Educational objective:

Under pure comparative negligence, a negligent plaintiff's recovery is reduced by his/her proportionate share of fault. And if multiple defendants cause the plaintiff indivisible harm, joint and several liability allows the plaintiff to recover the total amount of recoverable damages from any defendant.

References

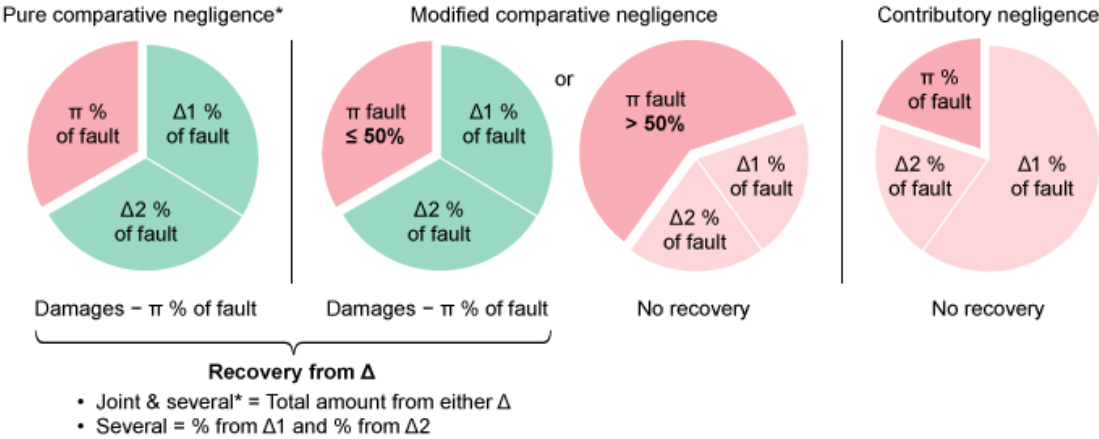
Restatement (Third) of Torts: Apportionment of Liab. § 7 (Am. Law Inst. 2000) (pure comparative negligence).

Restatement (Third) of Torts: Apportionment of Liab. § 10 (Am. Law Inst. 2000) (joint and several liability).

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Negligence rules of recovery



*Default rule on MBE; π = plaintiff; Δ = defendant

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