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ILLINOIS LAW MANUAL

CHAPTER XVI
COMMON CARRIERS

C. NEGLIGENCE AND PROXIMATE CAUSE

A common carrier may be negligent if it exposes a passenger to a danger that is foreseeable and avoidable. Lutz v. Chicago Transit Authority, 36 Ill. App. 2d 79, 84 (1st Dist. 1962). The negligence of the carrier must be the proximate cause of the injury. Baltes v. Checker Taxi Co., 27 Ill. App. 2d 298, 301 (1st Dist. 1960); Smith v. Chicago Limousine Service, 109 Ill. App. 3d 755, 759 (1st Dist. 1982). The carrier's negligence need not be the only cause; it is sufficient if the carrier's negligence occurs with some other concurrent cause that in combination causes the injury. Lutz, 36 Ill. App. 2d at 83. While there may be a presumption of negligence when a common carrier's passenger is injured in a collision with a private automobile, it is not a situation where *res ipsa loquitur* applies. Dean v. Young, 263 Ill. App. 3d 964, 967 (1st Dist. 1994). A presumption of negligence does not, however, arise where the injuries result from a cause beyond the carrier's control. Latendresse v. Marra, 49 Ill. App. 3d 266, 269 (1977); Gaines v. Chicago Transit Authority, 346 Ill. App. 3d 346 (1st Dist. 2004). When the presumption does arise, the carrier may rebut it. Browne v. Chicago Transit Authority, 19 Ill. App. 3d 914, 917 (1974); Gaines v. Chicago Transit Authority, 804 N. E. 2d 653 (2004).

Notwithstanding this presumption, a common carrier is not an absolute insurer of the safety of its passengers and is not responsible for personal injuries sustained by passengers in the absence of some negligent act or omission on its part. Smith, 109 Ill. App. 3d at 759 (1982). Further, the presumption does not relieve the plaintiff of the burden of presenting a *prima facie* case of negligence.