# Third Party Bodily Injury Claims and the Logistics Industry

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Readers may be familiar with the recent webinar series we held in conjunction with the TT Club. Each session considered Risk & Resilience within the logistics industry.

Following the third session in April 2026, which focussed on Third Party Property and Bodily Injury, an FTA member contacted us to share an incident involving bodily injury.

We asked the FTA member if they would consent to us sharing their experience as a case study to assist the logistics industry and they agreed, subject to anonymity.

The FTA member is based in Sydney NSW, offering freight forwarding and customs broking services. The FTA member also offers 3PL warehousing services in Sydney (their Head Office), and also in Melbourne and Brisbane. Two of the warehouses are leased from landlords and one of the premises is owned by the FTA member.

The FTA member (who we'll call the 3PL) explained that an injury occurred to a third party within the premises they owned.

For the sake of brevity, we have excluded much of the detail, teasing out the salient points only.

The 3PL advised that the circumstances leading up to the incident were as follows.

The 3PL has a long and very close relationship with a subcontracted third-party road transport services provider (who we'll call the TSP), who provided road transport for cargo movements within Australia.

During the course of 2018, the TSP was eyeing a portion of warehouse space and hard stand at the warehouse owned by the 3PL which wasn't being fully utilised. They had asked the 3PL on numerous occasions if they could utilise the space because it suited their expanding operations in that area. Initially, the 3PL resisted the requests because they had an impending new customer which would use the excess capacity.

However, the arrangements with the new customer did not proceed and in 2019, the 3PL agreed to the TSP's request. The 3PL arranged a sub-lease with TSP. In order to save legal costs, the 3PL elected to use Artificial Intelligence (AI) to assist them create the sub-lease documentation, which was duly executed. The TSP's use of the space included storage, delivery and staging area.

The arrangement worked well until June 2021, when a third-party owner/truck driver was engaged by the TSP to collect a load of heavy gauge steel pipes from the TSP's portion of the premises. The truck driver followed all the relevant protocols as set out by the TSP, including parking his truck and trailer in the staging area, alighting the truck and walking to the designated waiting area.

It appears that the TSP's forklift driver was experiencing difficulties loading the steel pipes onto the trailer and signalled to the truck driver to walk over and assist him. Whilst the truck driver was standing near the forklift carrying the load of steel pipes they accidently dropped on the truck driver, causing catastrophic injuries, including his head, legs and arms. The injuries to the truck driver's legs and arms were so severe that one leg and one arm required amputation. Tragically, the injuries sustained will probably mean it is unlikely he will be able to work again.

The relevant authorities were advised, and the site was closed for a period whilst investigations were undertaken.

The TSP notified their liability insurers, who engaged lawyers to assist them.

The TSP was prosecuted by the authorities and was ordered to pay a substantial fine (six figures).

Given that the incident occurred within the portion of the premises leased to the TSP and the forklift driver was an employee of the TSP, the 3PL did not believe they were responsible, however, out of an abundance of caution, they notified their liability insurers.

The 3PL's liability insurers also engaged lawyers to assist them.

The truck driver traded under a company and the relevant workers compensation insurers attended to the truck driver's medical, rehabilitation and other costs, which totalled seven figures.

The workers compensation insurer sent a payment demand to the TSP to recover these costs and the TSP passed the demand to their liability insurers who, in turned passed on to their lawyers.

The TSP's liability insurers also considered the sub-lease with the 3PL and noted some defects within the sub-lease which cast doubt whether the 3PL could "walk away" from being joined in any action.

There were numerous emails between the parties over many months arguing various points and positions, particularly the defects within the lease. As it turned out, the 3PL was caught in the workers

compensation recovery action because of, inter alia, the defects within the sub-lease. The 3PL's liability insurers and their lawyers recommended that they pay a portion of the recovery action (six figures), whilst admitting no liability.

That matter has now been settled, however the truck driver has commenced civil action proceedings against the TSP & the 3PL.

In the meantime, the truck driver's wife commenced proceedings against the TSP and the 3PL in her own right for damages relating to nervous shock arising from her husband's injuries.

At the time of writing, these proceedings remain on foot and will be managed in the months / years ahead.

3PL conceded that they genuinely believed that the use of AI (not just in drafting the sub-lease, but in other facets of their business as well) had empowered them, making them better informed with no need to engage lawyers and other consultants to assist them. They quickly realised this overconfidence was misplaced.

The 3PL also commented that this incident had consumed significant management time and resources during the last five years, with the likelihood of at least another two years before matters are finalised.

What are the key takeaways when incidents involving personal injuries to third parties arise?

- Contact appropriate medical assistance;
- Notify any relevant authorities;
- Immediately notify liability insurers;
- Collect and keep safe all evidence pertaining to the incident, including CCTV footage, photos and documentation such as incident reports and statements;
- Do not admit liability;
- Seek instructions from your liability insurers and/or their lawyers when information requests are received from external parties such as lawyers, insurance companies or surveyors prior to release.

***Who we are:***

*James and the team at Insurance Logic Pty Ltd t/as Logical Insurance Brokers (ABN: 44 002 859 252; AFSL #: 237633) provide specialist risk management and insurance solutions to the logistics industry. Logical is delighted to be associated with the Freight and Trade Alliance (FTA) and is proud to be their appointed insurance adviser since its inception in 2012. James is also a regular presenter at FTA professional development events.*

*If you would like more information about how a carefully constructed insurance program can help protect your business, please feel free to contact James on 02 9328-3322, email jamesc@FTAlliance.com.au or visit the Logical Insurance Brokers website at www.logicalinsurance.com.au/logistics.*

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