

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

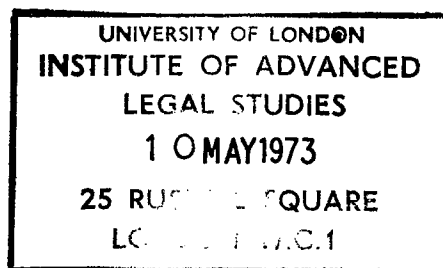
No. 25 of 1970

O N A P P E A L
FROM THE FEDERAL COURT OF MALAYSIA
HOLDEN AT SINGAPORE
(APPELLATE JURISDICTION)

B E T W E E N :

TAY KOH YAT BUS COMPANY LIMITED Appellant
(Respondent)
- and -
CHUA CHONG CHER Respondents
(Appellant)
and
TEO LAN KEOW (m.w.) (1st Respondent)
and
HOCK LEE AMALGAMATED BUS COMPANY LIMITED
(2nd Respondent)

RECORD OF PROCEEDINGS



LINKLATERS & PAINES,
Barrington House,
59-67 Gresham Street,
London, E.C.2.

Solicitors for the
Appellant.

LIPTON & JEFFERIES,
Princes House,
39 Jermyn Street,
London, S.W.1.

Solicitors for the
Respondent.

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RECORD OF PROCEEDINGS

INDEX OF REFERENCE

No.	Description of Document	Date	Page
<u>In the High Court in the Republic of Singapore</u>			
1.	Writ of Summons	27th December 1966	1
2.	Statement of Claim	27th December 1966	3
3.	Defence of the first Defendant Hock Lee Amalgamated Bus Co.Ltd. delivered	20th February 1967	6
4.	Defence of the second Defendants delivered	28th February 1967	8
5.	Defence of the third Defendant delivered	29th April 1967	10
6.	Court Notes of Evidence and Judgment	3rd November 1969 4th November 1969 5th November 1969	12 24 28

(ii)

No.	Description of Document	Date	Page
7.	Oral Judgment of Winslow J. and submissions of Counsel on costs	5th November 1969	29
8.	Grounds of Decision of Winslow J.	17th December 1969	34
9.	Formal Judgment	19th November 1969	36
<u>In the Federal Court of Malaysia</u> <u>Holden at Singapore (Appellate Jurisdiction)</u>			
10.	Notice of Appeal	19th November 1969	37
11.	Memorandum of Appeal	30th December 1969	38
12.	Additional grounds of Appeal	12th January 1970	41
13.	Court of Appeal Notes of Argument	12th January 1970	42
14.	Judgment of the Federal Court of Appeal read by F.A. Chua J.	9th February 1970	45
15.	Order of the Federal Court of Appeal	12th January 1970	49
16.	Order granting leave to appeal to the Judicial Committee of the Privy Council	6th April 1970	50
<u>E X H I B I T S</u>			
No.	Description of Document	Date	Page
<u>Plaintiff's Exhibits</u>			
AB(1)	Police Report No. 23360	12th May 1966	52
AB(2)	Translation of Police Report No. 12852 by Chua Chong Cher	9th March 1966	53
AB(3)	Original Police Report No.12852 of Chua Chong Cher	9th March 1966	54
AB(4)	Translation of Police Report No. 26934 of S. Ramasamy	31st May 1966	55

(iii)

No.	Description of Document	Date	Page
AB(5)	Original Police Report No.26934 of S. Ramasamy	31st May 1966	56
AB(6)	Translation of Police Report No.16608 of Teo Lang Keow	1st April 1966	57
AB(7)	Original Police Report No.16608 of Teo Lan Keow	1st April 1966	58
AB(8)	Police Sketch Plan	9th March 1966	59
AB(9)	Translation of Key to Plan Report No. 12592, 12852 and 13762	9th March 1966	60
AB(10)	Original of Key to Plan Report No. 12592, 12852 and 13762	9th March 1966	61
	<u>Third Defendant's Exhibits</u>		
P1(A)	Photograph showing position of vehicles after collision	Undated	62
P1(B)	Close-up photograph of two of the vehicles involved in the accident	Undated	63
P1(C)	Photograph of one omnibus and motor-cycle after the collision	Undated	64
P1(D)	Photograph of all three vehicles involved in the accident	Undated	65
P1(E)	Close-up photograph of the two buses involved in the accident	Undated	66
P1(F)	Side view photograph of the two buses involved in the accident	Undated	67
P1(G)	Close-up photogram of damage to front parts of both buses involved in the accident	Undated	68
P1(H)	Photograph of motor-cycle involved in the accident taken from the rear	Undated	69
P1(I)	Side view photograph of motor-cycle involved in the accident	Undated	70
P1(J)	Photograph of the damaged bus belonging to Hock Lee Amalgamated Bus Co. Ltd. First Defendants	Undated	71

No.	Description of Document	Date	Page
Pl(K)	Frontal photograph of the damaged bus belonging to Tay Koh Yat Bus Co. Ltd. Second Defendants	Undated	72
	Plan showing position of the two buses submitted by Third Defendant's Counsel on hearing of Appeal	Undated	

DOCUMENTS TRANSMITTED TO THE PRIVY COUNCIL
BUT OMITTED FROM THE RECORD

No.	Description of Document	Date
1.	Notice of Motion for leave to appeal to the Judicial Committee of the Privy Council	12th January 1970
2.	Motion paper for leave to appeal to the Judicial Committee of the Privy Council	Undated
3.	Affidavit of NG. Seng Hua for leave to appeal to the Judicial Committee of the Privy Council affirmed	25th February 1970
4.	Plaintiff's Exhibit AB(11) - Medical Report by Dr. Peter Wee	7th April 1966
5.	Plaintiff's Exhibit AB(12) - Specialist Report by Mr. W. Fung, M.Ch.Orth., F.R.C.S.E.	26th May 1966
6.	Plaintiff's Exhibit AB(13) - Specialist Report by Mr. E.A. McVerry, F.R.C.S.	3rd December 1966
7.	Plaintiff's Exhibit AB(14) - Second page of Specialist Report by Mr. E.A. McVerry F.R.C.S.	3rd December 1966
8.	Plaintiff's Exhibit AB(15) - Specialist Report by Mr. E.A. McVerry F.R.C.S.	14th October 1969

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

No. 25 of 1970

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B E T W E E N :

TAY KOH YAT BUS COMPANY LIMITED Appellant
(Respondent)

- and -

CHUA CHONG CHER Respondents
(Appellant)

and
TEO LAN KEOW (m.w.) (1st Respondent)

and

HOCK LEE AMALGAMATED BUS COMPANY LIMITED
(2nd Respondent)

RECORD OF PROCEEDINGS

No.1

In the High
Court of the
Republic of
Singapore

20

WRIT OF SUMMONS
dated 27th December, 1966

IN THE HIGH COURT OF THE REPUBLIC
OF SINGAPORE

No.1

Suit No. 2176

of 1966.

Writ of
Summons

27th December
1966

B E T W E E N

30

Teo Lang Keow (m.w.)
Plaintiff

AND

1. Hock Lee Amalgamated Bus
Company Limited
2. Tay Koh Yat Bus Company
Limited
3. Chua Chong Cher
Defendants

THE HONOURABLE MR. JUSTICE WEE CHONG JIN, CHIEF
JUSTICE OF THE REPUBLIC OF SINGAPORE, IN THE NAME AND

In the High Court of the Republic of Singapore

No. 1

Writ of Summons

27th December 1966

continued

ON BEHALF OF THE PRESIDENT OF THE REPUBLIC OF SINGAPORE.

To. 1. Hock Lee Amalgamated Bus Co. Ltd., a company incorporated in Singapore and having its registered office at No. 249, Alexandra Road, Singapore.

2. Tay Koh Yat Bus Co. Ltd., a company incorporated in Singapore and having its registered office at No. 57, Beach Road, Singapore.

10

3. Mr. Chua Chong Cher of No. 52-6, Holland Road, Singapore.

We command you, that within eight days after the service of this writ on you, inclusive of the day of such service, you do cause an appearance to be entered for you in a cause at the suit of Teo Lang Keow (m.w.) of No. 21, Eng Hoe Road, Singapore and take notice, that in default of your so doing the plaintiff may proceed therein to judgment and execution,

20

WITNESS Mr. Eu Cheow Chye, Registrar of the High Court in Singapore, the 27th day of December, 1966.

sd. Tay Kim Whatt Dy. Registrar High Court, Singapore.

sd. Ong Tiang Choon & Co., Solicitors for the Plaintiff

N.B. - This writ is to be served within twelve months from the date thereof, or, if renewed, within six months from the date of such renewal, including the day of such date, and not afterwards.

30

The defendant (or defendants) may appear hereto by entering an appearance (or appearances) either personally or by solicitor at the Registry of the High Court at Singapore.

A defendant appearing personally may, if he desires, enter his appearance by post, and the appropriate forms may be obtained by sending a

Postal Order for \$5,50 with an addressed envelope to the Registrar of the High Court at Singapore.

In the High Court of the Republic of Singapore

10 The Plaintiff's claim is for damages for personal injuries and loss caused to the Plaintiff by the negligent driving of the servant or agent of the 1st Defendant, Oon Long Kiang of motor omnibus No. SH 706, or by the negligent driving of the servant or agent of the 2nd Defendant, S. Ramasamy of motor omnibus No. SH 190 or by the negligent riding of the 3rd Defendant the registered owner of motor cycle No. SAG 3250 or alternatively any two or all of them.

No.1

Writ of Summons

27th December 1966

continued

This Writ was issued by Messrs. ONG TIANG CHOON & CO. of No. 32-A, Raffles Quay, Singapore, Solicitors for the Plaintiff. Plaintiff who resides at No. 21, Eng Hoe Road, Singapore.

This Writ was served by

20 on or the day the defendant 19 .
Indorsed the day of 19 .

(Signed)
(Address)

(Filed on 27th December, 1966)

No. 2

No.2

STATEMENT OF CLAIM
dated 27th December, 1966

Statement of Claim

30 1. The above-named Plaintiff is a married woman aged 51 years and a seamstress by occupation.

27th December 1966

2. The above-named 1st and 2nd Defendants are omnibus companies maintaining omnibus services in the Republic of Singapore. The above-named 3rd Defendant is the registered owner of the motor cycle No. SAG 3250.

In the High
Court in
the Republic
of Singapore

—
No.2

Statement
of Claim

27th December
1966

continued

3. On or about the 9th day of March 1966 the Plaintiff was a passenger in the Hock Lee Bus No. SH 706 which was driven by its servant or agent, one Oon Long Kiang and which was proceeding along River Valley Road in the direction of Tank Road. Just as the said Hock Lee Bus reached Leonie Hill Road on its left side the Tay Koh Yat Bus No. SH 190 which was driven by its servant or agent, one S. Ramasamy came from the opposite direction towards Kim Seng Road and collided with a motor cycle No. SAG 3250 which was ridden by the 3rd Defendant and which was in front of the said Tay Koh Yat Bus going in the direction of Kim Seng Road. At or about the time of the said collision the said Tay Koh Yat Bus again collided with the said Hock Lee Bus causing the Plaintiff to be thrown from her seat and to fall inside the said Hock Lee Bus.

10

4. The Plaintiff's fall inside the said Hock Lee Bus was caused solely by the negligence of the said servant or agent of the 1st Defendant or alternatively by the negligence of the said servant or agent of the 2nd Defendant or alternatively by the negligence of the 3rd Defendant or alternatively on the part of any two or all of them.

20

PARTICULARS OF NEGLIGENCE OF THE 1ST
DEFENDANT'S SERVANT OR AGENT

(a) Failing to keep any or any proper look-out or to have any or any sufficient regard for the safety of the passengers;

30

(b) Failing to observe the presence of Tay Koh Yat Bus No. SH 190 on the highway;

(c) Failing to stop, slow down, swerve to the left or otherwise avoid collision with Tay Koh Yat Bus No. SH 190;

(d) Travelling at an excessive speed in the circumstances.

PARTICULARS OF NEGLIGENCE OF THE 2ND
DEFENDANT'S SERVANT OR AGENT

40

(a) Failing to keep any or any proper look-out;

5.

- (b) Knocking into the motor cycle No. SAG 3250 in front;
- (c) Going to its wrong side of the road and encroaching on the path of Hock Lee Bus No. SH 706, resulting in a collision;
- (d) Failing to stop, slow down, swerve properly or otherwise avoid collision with the said motor cycle and the said Hock Lee Bus;
- (e) Travelling at an excessive speed in the circumstances.

In the High Court in the Republic of Singapore

No.2

Statement of Claim

27th December 1966

10

PARTICULARS OF NEGLIGENCE OF THE 3RD DEFENDANT

Continued

- (a) Turning to the right or left without signal and when it was unsafe to do so in respect of vehicles following behind;
- (b) Failing to keep any or any proper look-out;
- (c) Failing to observe the presence of Tay Koh Yat Bus No. SH 190 on the highway and colliding with the said Bus;
- (d) Failing to exercise proper control over his vehicle

20

5. By reason of the aforesaid negligence the Plaintiff has suffered injuries, has endured pain and has been put to loss and expense.

PARTICULARS OF INJURIES OF THE PLAINTIFF

- (a) contusion right lumbar region;
- (b) a small chip fracture over the lateral epicondyle of the lower end of the left humerus at the elbow joint;
- (c) fractured left malieolus (ankle);
- (d) traumatic neuro-plaxia has arisen and the ulna nerve injury may be transplanted in the future.

30

In the High
Court in the
Republic of
Singapore

PARTICULARS OF SPECIAL DAMAGES

No. 2
Statement
of Claim
27th December
1966

(a) loss of earnings as a seamstress at \$120/- per month for 9 months and continuing	\$1,080.00
(b) loss of transport for 7 trips at \$2/- per trip	<u>\$ 14.00</u>
	<u>\$1,094.00</u>

Continued

6. And the Plaintiff claims damages.

Dated and delivered this 27th day of December
1966.

10

sd. Ong Tiang Choon & Co.
Solicitors for the Plaintiff.

To the above-named 1st Defendant
at No.249, Alexandra Road,
Singapore.

To the above-named 2nd Defendant,
at No. 57, Beach Road,
Singapore.

To the above-named 3rd Defendant,
at No. 52-6, Holland Road,
Singapore.

20

(Filed on 27th December, 1966)

No. 3
Defence of
the first
Defendant
20th February
1967

No. 3

DEFENCE OF FIRST DEFENDANTS
dated 20th February, 1967

1. The first Defendants have no knowledge of the matters referred to in paragraph 1 of the Statement of Claim and make no admission in respect thereof.

2. The first Defendants admit that they are an omnibus company and maintain omnibus services in the Republic of Singapore. Save as to the aforesaid no admissions are made in regard to the other matters set out in paragraph 2 of the Statement of Claim.

30

3. As to paragraph 3 of the Statement of Claim the first Defendants admit that their bus Registration No. SH 706 was, on or about the 9th day of March, 1966, being driven by their servant, Oon Long Kiang, along River Valley Road in the direction of the City when it was collided into by an omnibus Registration No. SH 190 belonging to the second Defendants which was proceeding in the opposite direction. Save as to the aforesaid the first Defendants deny, or alternatively make no admission in respect of, the matters set out in paragraph 3 of the Statement of Claim.

10

4. The first Defendants deny that the Plaintiff's fall, in respect of which no admissions are made, was caused, or alternatively contributed to, by the negligence of the first Defendants' aforesaid servant or agent, and the first Defendants will say that the aforesaid collision was caused by the negligence of the servants or agent of the second Defendants, or alternatively, the negligence of the third Defendant, or in the further alternative by the negligence of both the servants or agents of the second Defendants and the negligence of the third Defendant. The first Defendant adopt the particulars of negligence of the second Defendants' servants or agents and of the third Defendant set out under paragraph 4 of the Statement of Claim.

20

5. The first Defendants make no admission in regard to the contents of paragraph 5 of the Statement of Claim and put the Plaintiff to strict proof thereof.

30

6. Save as hereinbefore expressly admitted the allegations in the Statement of Claim are denied as though set out seriatim and specifically traversed.

Delivered the 20th day of February, 1967.

sd. Drew & Napier

 Solicitors for the first
 Defendants.

(Filed on 20th February, 1967)

In the High Court in the Republic of Singapore

—
 No. 3

Defence of the first Defendant

20th February 1967

continued

In the High Court in the Republic of Singapore

DEFENCE OF THE SECOND DEFENDANTS
dated 28th February, 1967

—
No. 4

Defence of the Second Defendants

28th February 1967

1. The 2nd Defendants have no knowledge of the facts alleged in paragraph 1 of the Statement of Claim, save that in paragraph 2, the 2nd Defendants admit that they are maintaining omnibus services in the Republic of Singapore.

10

2. The 2nd Defendants deny that the said accident was caused by the alleged or any negligence of their servant or agent S. Ramasamy and say that it was caused solely or alternatively contributed to by the negligence of the 3rd Defendant, in the management and control of motor cycle No. SAG.3250.

PARTICULARS OF 3RD DEFENDANT'S
NEGLIGENCE

(a) Failing to keep any or any proper look-out or to have any or any sufficient regard for other users of the said road;

20

(b) Riding the said motor cycle in a dangerous manner to wit by zig zagging along the said road;

(c) Suddenly and without proper or any warning stopping the said motor cycle abruptly in the middle of a busy road, thereby constituting a danger to other vehicles lawfully using the said road;

(d) Suddenly and without proper or any warning whatsoever turning left into the path of the 2nd Defendants' bus and notwithstanding evasive action taken by the servant or agent S. Ramasamy the accident was inevitable;

30

(e) Failing to give proper or any signal of his intention to turn left across the path of the 2nd Defendants' bus;

(f) Failing to exercise or maintain any or any proper or effective control of the said motor cycle.

40

10 3. The 2nd Defendants further say that if they are held liable to the Plaintiff, which liability is not admitted they claim against the 3rd Defendant to an indemnity against the Plaintiff's claim and the costs of this action or to contribution in respect of such claim and costs to the extent of such amount as may be found by the Court to the just and equitable on the ground that the negligence of the 3rd Defendant, caused or contributed to the said accident.

4. The alleged injuries, loss and damages are not admitted.

5. Save as herein expressly admitted the 2nd Defendants deny each and every of the allegations contained in the Statement of Claim as if the same were herein set out and specifically traversed.

20 Dated and Delivered this 28th day of February, 1967 by,

sd. A.S.K. Wee
Solicitors for the 2nd Defendants

To the above-named Plaintiff
and to his Solicitors,
Messrs. Ong Tiang Choon & Company,
Singapore.

30 To the above-named 1st Defendants,
and to their Solicitors,
Messrs. Drew & Napier,
Singapore.

To the above-named 3rd Defendants
and to his Solicitors,
Messrs. Rodyk & Davidson,
Singapore.

(Filed on 28th February, 1967)

In the High
Court in
the Republic
of Singapore

—
No. 4

Defence of
the Second
Defendants

28th Februa
February
1967

Continued

In the High Court in the Republic of Singapore

DEFENCE OF THE THIRD DEFENDANT
dated 29th April, 1967

No. 5

Defence of the Third Defendant

29th April 1967

1. The Third Defendant has no knowledge of the matter referred to in paragraph 1 of the Statement of Claim.

2. Save that the Third Defendant admits he was the owner at all material times of motor cycle No. SAG 3250 he has no knowledge of paragraph 2 of the Statement of Claim

10

3. The Third Defendant denies that the accident alleged or any injuries, pain, loss or expense either as alleged or at all was caused by the alleged or any negligence of the Third Defendant, but were caused solely by the negligence of the servant or servants of the First and/or Second Defendants particulars whereof are set out in the Statement of Claim which said particulars the Third Defendant hereby repeats and adopts.

20

4. The Third Defendant will further say that the Second Defendants' servant or agent was negligent in regard to the said accident in the following further respects.

FURTHER PARTICULARS OF NEGLIGENCE
OF THE SECOND DEFENDANTS' SERVANTS
OR AGENT

(a) Failing to observe the presence of the Third Defendant's motor cycle on the highway;

30

(b) Failing to maintain a safe distance behind the Third Defendant's motor cycle;

(c) Failing to allow a sufficiently wide berth;

(d) Overtaking or attempting to overtake the Third Defendant's motor cycle when it was unsafe so to do;

40

(e) Failing to apply his brakes sufficiently or in time to avoid colliding into the Third Defendant's motor cycle;

- (f) Colliding into the rear of the Third Defendant's motor cycle;
- (g) Failing to exercise reasonable prudence or skill in the circumstances;
- (h) Failing to take reasonable precaution to avoid danger;

In the High Court in the Republic of Singapore

No. 5

Amend(i) "Failing to observe the traffic signals by letter given by 3rd Defendant indicating that 28/10/69 the 3rd Defendant was proposing to turn right."

Defence of the Third Defendant
29th April 1967.

10

5. Save as is herein expressly admitted the Third Defendant denies each and every allegation contained in the Statement of Claim as if the same were set forth herein seriatim and specifically denied.

Continued

Dated and Delivered this 29th day of April, 1967.

Sd. Rodyk & Davidson

Solicitors for the Third Defendant

20 To the above-named Plaintiff and her Solicitors, Messrs. Ong Tiang Choon & Co., Singapore.

To the 1st Defendants and their Solicitors, Messrs. Drew & Napier, Singapore.

30 To the 2nd Defendants and their Solicitors, Messrs. A.S.K. Wee, Singapore.

(Filed on 29th April, 1967)

In the High Court in the Republic of Singapore

No. 6

COURT NOTES OF EVIDENCE
3rd November 1969

Coram: Winslow J.

No.6

Court Notes of evidence
3rd November 1969

Monday, 3rd November, 1969

Ong Tiang Choon for pl.
Grimberg for 1st dt.
A.S.K. Wee for 2nd dt.
Potts for 3rd dt.

10

10.33 a.m.

Murphy (in Suit 97/67 to follow this Suit) watching.

Ong: Agreed bundle: AB

Damages agreed \$5,500/-

Murphy: Agreed damages in Suit 97/67 \$7,000/-
Allegation of contributory negligence by my client - driver of 1st dt's bus - that's 20 why I am here.

Plaintiff's evidence

Ong calls:

P.W.1 Teo Lang Keow a.s. Hokk.
756 Margaret Drive

TEO LANG
KEOW
Examination

Seamstress before accident - unemployed after it.

9 March 1966 about 1 p.m. I left my house 30 in Holland Road and took Hock Lee bus No. 706 after waiting some time

When I boarded it there were 2 or 3 other passengers.

I seated 3rd from the left. Seats ran along side each side of the bus.

As I entered I turned right and sat on 3rd seat to right on the nearside.

I was going towards town. We reached bus stop in River Valley Road.

After leaving bus stop (passengers having got down) shortly after I heard a bang. All passengers in bus fell down. I was bottom most. Other passengers fell on top of me. There were about 10 passengers. I became unconscious. When I was taken down from bus I recovered consciousness.

10

My dress was blood stained - serong kebaya like what I wear now.

Ambulance came.

My head, back, left hand and left leg, right hip were injured.

In the High Court in the Republic of Singapore

No. 6

Court Notes of evidence

3rd November 1969

Plaintiff's evidence

TEO LANG KEOW
Examination

Continued

20

Xxn. Grimberg for 1st dt.

When bang took place the bus was width of court (40 ft.) from bus stop.

No xxn by Wee for 2nd dt.

Cross Examination by Counsel for 1st Defendant

No Cross Examination by Counsel for 2nd Defendant

30

Xxn. Potts for 3rd dt.

I did not see how the accident occurred.

No re-x

Cross Examination by Counsel for 3rd Defendant

No re-examination

To Court: Some passengers were seated and some were standing when bang took place. I was last to get up. I was first to fall down.

To the Court

40

Case for plaintiff.

In the High Court in the Republic of Singapore

No. 6

Court Notes of evidence 3rd November 1969

1st Defendants evidence

OON LONG KIANG Examination

Grimberg for 1st dt. calls :-

D.W.I. Oon Long Kiang as.s.Hockchia 149 Syed Alwi Road. Driver for 1st dt. for 12 years.

9 March 1966 I drove bus SH 706 on route 10 which runs Holland Village to City through River Valley Road.

I stopped at 1st bus stop on City side of Great 10 World Junction of Kim Seng Road X River Valley Road.

I proceeded after that along my path.

A Tay Koh Yat bus was coming from opposite direction.

When it was 25 ft. in front of me it suddenly turned-swerved to its right and collided with my bus.

20

My bus was going up hill. The other bus was going down hill at about 30 m.p.h.

Impact took place at Leonie Hill Road X River Valley Road.

I was, at point of impact, about 3 or 4 feet from edge of Road.

My speed was 10-15 mph.

The bus stop I had left was slightly more than 100 feet behind me.

No vehicle in front of me in same direction before impact.

30

There were other vehicles - motor cycles, motor cars and cycles.

I did not see any other vehicle involved in accident.

I was injured in collision.

I was carried out of bus after it.

I became unconscious after head injury.

Xxn. Wee for 2nd dt.

In the High Court in the Republic of Singapore

I don't know why Tay Koh Yat bus swerved to my side.

When it swerved I applied my brakes and wanted to swerve left but it was too late for me to do so.

No. 6

All sorts of vehicles were on the road then - moderate traffic.

Court Notes of evidence

10

Road was narrow but my bus was on its correct side.

3rd November 1969

Motor cars, cycles, motor cycles were approaching me on their side of the road. They were on their own lane. They were on the nearside of Tay Koh Yat bus.

Cross examination by Counsel for 2nd Defendant

Q. Ahead, abreast or behind Tay Koh Yat bus?

20

A. I did not see them ahead. Couldn't say if they were abreast but they were on its near side. I could not see if they were behind. I was looking to my side.

There was a motor cycle ahead and to the left of the bus. Nothing directly ahead of bus. None abreast of it - I couldn't see.

The motor cycle was the only one I could see (demonstrates).

Tay Koh Yat bus was 5 or 6 feet from its nearside edge of the road.

30

Bus suddenly swerved to the left. Before I could swerve left it collided with my bus. I never swerved.

Basis of my estimate of its speed of 30 mph is visual impression as well as fact it was coming downhill. It came down very fast.

I first saw the bus more than 200 feet away on its side - about 200 ft. It was 5/6 feet from edge of road.

40

(Agreed photos P1(A-K) put in by Potts).

Exhibits P.1 (A-K)

In the High Court in the Republic of Singapore

—————
No. 6

Court Notes of evidence
3rd November 1969

Cross examination by Counsel by 2nd Defendant

continued

Exhibits P.1 (A-K) continued

Cross examination by Counsel for 3rd Defendant

It travelled parallel to edge of road for about 175 feet. It was on its side. There was until then no danger of collision.

For some inexplicable reason it swerved to its right and collided with me.

Immediately prior to Tay Koh Yat bus's collision with my bus I was not aware of any other collision between Tay Koh Yat bus and any other vehicle.

10

Subsequently I learned in traffic court that a motor cyclist had had a collision with Tay Koh Yat bus.

I did not see anything happen to motor cycle ahead and to left of Tay Koh Yat bus. It was not involved with it.

20

Xxn. Potts for 3rd dt.

Q. Did Tay Koh Yat bus appear to be overtaking any of the vehicles on its nearside?

A. I did not in fact see any overtaking taking place.

By 5/6 feet I mean 6/7 feet (demonstrates pointing in Court).

30

I saw 2 motor cycles ahead and to left of Tay Koh Yat bus - one in front of the other. One was 30 feet ahead of the other. That was when I saw Tay Koh Yat bus 200 feet away.

There were also bicycles very near edge of the road which Tay Koh Yat overtook. Tay Koh Yat bus travelled on its correct side. I saw only one cyclist.

When I and the Tay Koh Yat bus were 25 feet apart the two motorcyclists preceding the Tay Koh Yat bus had gone past me to my rear. There was no vehicle between the two buses at that stage.

40

There was only one cyclist on the nearside of

Tay Koh Yat bus over the distance of 200 feet.

Tay Koh Yat bus overtook it.

At that time it was more or less 100 feet from me.

There may have been pedestrians, I don't remember. I didn't pay attention.

10

Xxn. Ong for plaintiff.

I became unconscious. Don't know if any passengers were injured.

20

No re-x.

D.W. 2 Low Boon Chwee a.s. Hockchia
10 Angullia Road
Bus conductor for 1st dt. for 30 years.

9 March 1966 I was conducting on bus SH 706 driven by D.W.1 (id).

30

It was involved in accident at Leonie Hill Road X River Valley Road.

I only heard a bang and fell down.

Prior to accident I did not observe approaching vehicles as I was attending to passengers.

No Xx by Wee or Potts for 2nd and 3rd dt.

Xx Ong for plaintiff.

Plaintiff was also injured.

40

Case for 1st defendant.

D.W.3 (2nd defendant).

In the High Court in the Republic of Singapore

No.6

Court Notes of evidence

Cross examination by Counsel for 3rd Defendant

continued

Cross examination by Counsel for the Plaintiff

No re-examination

1st Defendants evidence (continued)
LOW BOON CHWEE Examination

No Cross-examination by Counsel for 2nd and 3rd Defendants

2nd Defendants evidence

In the High
Court in
the Republic
of Singapore

—
No.6

Court Notes
of evidence
3rd November
1969

2nd
Defendants
evidence
continued

RAMASAMY S/O
SELLAPPAN
Examination

Ramasamy S/o Sellappan a.s. Tamil
5 Wei Hua Road
I was bus driver Tay Koh Yat Bus Co.

2.20 p.m. 9 March 1966 I drove Tay Koh Yat bus
S.H. 190 along River Valley Road going away from the
City.

As I was approaching Leonie Hill Road junction
I was involved in traffic accident. 10

I had just picked up passengers.

There were plenty of vehicles going ahead of me.

I was behind a lorry.

I saw motor cycle in centre of the road waiting
(stationary) to turn right into Leonie Hill Road. It
was 30 or 40 feet from me. 20

My speed was then between 15 to 20 mph.

I was 3/4 feet from edge of road.

Lorry was in front of me.

After lorry had passed the motorcyclist the
motor cyclist suddenly swerved left across my path.

Lorry overtook motorcyclist on left side of
motorcyclist.

When motorcyclist suddenly swerved to its left
it was 7 to 10 feet of me on a slope. (sic) 30

When motorcyclist swerved left I swerved right
to avoid a collision. I don't know if I collided
with motorcyclist.

I swerved violently to right and on seeing
vehicles approaching from front I again swerved
left. There was a collision with Hock Lee bus in
front.

I applied my brakes and then swerved right.

If I had not swerved right I do not know if
motorcyclist would be alive if my bus went over him. 40

I suffered injuries mainly to my right leg (fractured) right hand (fractured) injury on my back.

I could not drive bus after accident. I tried to. I am unemployed.

I subsequently discovered I had collided with motorcyclist - when I was in hospital.

In the High Court in the Republic of Singapore

—
No. 6

Court Notes of Evidence

3rd November 1969

2nd Defendants evidence continued

RAMASAMY S/O SELLAPPAN Examination continued

10

20 Xxn. Grimberg for 1st dt.

The right swerve took me to wrong side of road - to save life.

Hock Lee bus was on its correct side but quite far.

I know bus stop about 100 ft. behind it from scene of accident.

30

I don't know if Hock Lee bus stopped at bus stop.

Xxn. Potts for 3rd dt.

(Para. (i) added to para. 4 of 3rd dt's defence - per slip to be submitted this afternoon re. failing to observe signal by 3rd dt. indicating intention to turn right.)

Lorry was about 20 ft. in front of me.

I could see road ahead of lorry as well. Motor cycle was 10 to 20 feet ahead of lorry at that stage.

40

Lorry was smaller than the bus. It did not impede my vision.

Cross-examination by Counsel for 1st Defendant

Cross-examination by Counsel for 3rd Defendant

In the High Court in the Republic of Singapore

I had just left a bus stop 200 to 300 ft. away.

My speed was not 30 m.p.h. Bus stop was on top of the hill.

No. 6

I could see motor cyclist 30-40 ft. away.

Court Notes of Evidence

I did not see it "so long ago" (?)

3rd November 1969

I could not see over the top of the lorry's cabin (?)

10

Cross-examination by Counsel for 3rd Defendant continued

I saw the motorcyclist on the right side of the lorry.

There were other vehicles - oncoming traffic - I had to look at them too.

12.48 to 2.15 p.m.

2.25 p.m.

D.W.3 2nd defendant o.f.o.

Xm by Potts for 3rd dt. ctd.

20

Q. D.W.1 did not see a lorry in front of you. Are you sure you saw a lorry?

A. In fact there was a lorry.

There were no motor cycles in front of me proceeding in the same direction.

There were no bicycles which I overtook.

Q. D.W. 1 said in evidence you overtook a bicycle?

A. No one told me that he said that.

Q. Well, he said so. What do you say?

30

A. I deny it.

Q. Motor cyclist had his right hand out indicating he was going to turn right?

A. I did not see the signal. He merely

remained stationary at centre of road. Maybe he wanted to turn right. I thought he was going to turn right. Motor cyclist had his leg on ground.

In the High Court in the Republic of Singapore

Q. The story that he swerved left is complete nonsense?

A. He did swerve left.

—
No. 6

Court Notes of Evidence

10

Q. Rubbish?

3rd November 1969

A. I only can tell what happened. I did swerve to right and then to left. How could I go fast with a bus stop ahead of me about 100-150 feet from scene of accident.

Cross-examination by Counsel for 3rd Defendant continued

Q. Your bus company has 2 stops at a distance of 450 feet apart.

20

A. I was not travelling too fast down slope to pull up in time to avoid motorcyclist.

I can't say if counsel's version that I swerved right because of cyclist on my left is correct.

Q. Why should motorcyclist swerve left?

A. You must ask him. Don't know if he wanted to commit suicide.

30

I tried to save his life. Hence I have suffered for 4 years. I wanted to save the lives of passengers to both buses.

No xxn. by plaintiff.

No Cross-Examination for Plaintiff

Re-x. Wee for 2nd dt.

Re-examination

I couldn't go fast as slope was not steep and there was a bus stop in front.

40

I could see much ahead of lorry but not immediately in front of lorry.

To Court:

To the Court

Q. You made no mention of lorry in your report AB4?

In the High
Court in
the Republic
of Singapore

—
No. 6

Court Notes
of Evidence

3rd November
1969

To the Court
continued

3rd Defen-
dants evidence
Chua Chong
Cher
Examination

A. I did. I don't know English. My Malay is not so good.

I first noticed the Hock Lee bus when it was 10 to 50 feet from scene of collision - 40 or 50 feet.

Motor cycle was then stationary in centre of road about 10 or 20 feet from me.

The lorry was in front of me about 15 or 20 feet. 10

Speed of Hock Lee bus when I saw it was 10 or 20 or 30 mph. Could be 10 or 20 mph.

Case for 2nd dt.

D.W.4 (3rd Defendant)

Chua Chong Cher a.s. Hokk.
526 Holland Road.
Mason.

I was rider of motorcycle SAG 3250. 20

2.30 p.m. 9.3.66 I was riding down River Valley Road.

Was involved in accident.

Tay Koh Yat bus stopped at River Valley Road to let down passengers at a bus stop. I overtook it on its offside at just over 20 mph.

On approaching Leonie Hill Road I reduced speed.

I showed right hand indicating "Stop". I stopped.

There was a grey car approaching from opposite direction. 30

I heard a loud sound behind me after I stopped.

When I turned head round to see, a Tay Koh Yat bus collided into me. I fell down on to crown of road. I got up.

I saw 2 buses (Tay Koh Yat and Hock Lee) involved in collision.

I intended to go to Leonie Hill Road.

I stopped in middle of right road. I wanted to turn right.

I made a report (AB2 read to him). This is it. That is how accident happened.

After I was hit I heard a bang.

In the High Court in the Republic of Singapore

—
No. 6

Court Notes of Evidence

3rd November 1969

3rd Defendants evidence Chua Chong Cher examination continued

10

20 No xxn. by pl.

No Cross-examination by Counsel for the Plaintiff

Xxn. by Wee for 2nd dt.

I had a Provisional D/L taken out less than 2 months before. New motorcycle.

Cross examination by Counsel for 2nd Defendant

30

Bus-stop I mentioned was 50 to 60 feet from point of impact.

I was coming from town - Havelock Road.

Tay Koh Yat bus when I overtook it was stationary at bus stop.

I was travelling slowly down the slope to Leonie Hill Road Junction at 20 mph. I slowed down before junction. Don't know how long before junction - about 15 feet from junction. I started slowing down. I marked X where I was stationary.

40

I was stationary there for more than 1 sec. before being hit.

The grey car passed the junction before I was hit.

In the High
Court in
the Republic
of Singapore

—
No.6

Court Notes
of Evidence

3rd November
1969

Cross-exam-
ination by
Counsel for
2nd
Defendant

There was no other car approaching.

Behind grey car was No.10 Hock Lee bus.

The car was not turning into Leonie Hill Road.
It went past me towards town.

There was no vehicle in front of me travelling
in same direction or abreast of me.

Before I was hit I did not see any lorry in
the vicinity I did not see any vehicle passing me 10
on my left.

After I stopped I heard a Diesel engine sound.

I turned round to see and was hit by Tay Koh
Yat bus. I fell down. I did not become unconscious.
I heard a bang and saw them in a head on collision -
the Tay Koh Yat bus and the Hock Lee bus.

I saw Hock Lee bus coming but can't estimate
how far away - it was about 10 feet (after a little 20
prevarication) - points 14 feet.

4.03 to 10.30

Sgd. A.V. Winslow

3rd Defen-
dant's
evidence
(continued)
4th November
1969

Tuesday, 4th November, 1969

10.33 a.m.

Potts: 3rd defendant concedes no negligence on
part of 1st defendant.

Chua Chong
Cher
Cross-exam-
ination by
Counsel for
2nd Defen-
dant
(continued)

D.W.4 o.f.o. Xxn. ctd. Wee for 2nd defendant. 30

When I turned head round to see I saw Tay Koh
Yat bus - don't know how far away. It was following
behind me. It was in middle of road.

Its speed was about 30 mph.

I fell on crown of road.

Motor cycle fell to the left side of road.

Before I fell I was seated on motorcycle with 40
my right foot on the ground. I was at the same

time giving a signal (with right hand outstretched waving palm up and down).

I gave signal 15 feet before reaching point where I stopped.

I was on crown of road as I overtook bus at bus stop.

I kept a straight course until I came to a stop.

10

(Potts says bus stop is 150/200 yards from Leonie Hill Road junction - saw it last night).

When I turned head round I was knocked. At same time I saw the bus.

All I know is that there was a bus behind me. I can't place it.

My motor cycle was slightly inclined to the right.

20

The bus stop is on brow of hill. Don't know when Tay Koh Yat bus moved off from bus stop.

I didn't hear the sound of Diesel engine earlier than when I said I heard it.

When bus hit me I had my head turned round. I only had a glance of its front.

I estimate its speed at 30 mph because it was fast. I assess it from the loud sound of Diesel engine.

(I inform counsel that Malay interpreter corrected "left" in AB2 to "right")

30

Q. On 16 August 1967 you gave evidence in proceedings before a magistrate relating to accident, Mr. Potts defended you on a charge of S.25(1).

A. Yes.

Can't remember if I said I came from Melody Building site in River Valley Road.

Melody building site is near the bus stop but on the other side of the hill.

In the High Court in the Republic of Singapore

No. 6

Court Notes of Evidence

4th November 1969

Cross-examination by Counsel for 2nd Defendant (continued)

In the High
Court in
the Republic
of Singapore

No.6

Court Notes
of Evidence
4th November
1969

Cross-exam-
ination by
Counsel for
2nd Defen-
dant
(continued)

It was after bus stop that bus followed me.

Q. To Magistrate you said bus followed you either from Melody Building site or the bus stop. Today you said you were not aware until hit that it was following you.

A. I consider bus as behind me because it stopped at bus stop to let down passengers. I assumed it would follow. When it collided with me I knew it must have followed me. 10

Q. To Magistrate you said you fell to the left side of the road?

A. I fell on the left side of my body on the crown of the road.

Q. You told Magistrate you saw Tay Koh Yat Bus about 10 feet behind you before you were hit but here you said you were hit when you saw it. 20

A. What I said then to Magistrate is correct.

Q. You have not mentioned here you swerved to the left?

A. I was not asked. (Court did ask him and he denied swerving left).

My handle bar was slightly turned to the left as I looked behind turning head to right. 30

I had not started to move.

I was thrown forward about 6 feet.

I didn't suffer much injury nor did motor cycle sustain much damage. Bus must have struck me a glancing blow.

I never mentioned sound of Diesel engine in Magistrate's Court as I was not asked.

Q. Put that whilst stationary for some reason you changed your mind and swerved to your left. 40

A. No.

Q. Probably you were inexperienced and your engine had stalled.

A. It did not stall. I had experience before I got P.D/L on motorcycles I borrowed from friends.

I did not disregard other users of road.

10 I did not intend to turn the front handle to the left. It was involuntary.

I understand AB8.

I cannot mark on AB8 where I fell.

20 Re-X Potts.

When I saw bus behind me I was hit as I turned head round.

I was a little frightened - danger was near.

It all happened quickly.

I find 1st defendant - not liable at all and inform counsel.

30 12.17 Wee addresses the Court:

No liability so far as 1st dt. is concerned.

As between 2nd dt. and 3rd dt. Causa Causan was of Tay Koh Yat bus running into Hock Lee bus.

1st defendant has chosen not to see what actually happened.

Lorry in front of 2nd defendant.

3rd defendant veered left - agony of moment for 2nd defendant.

40 Portion of Tay Koh Yat bus was on correct side of road.

In the High Court in the Republic of Singapore

—————
No. 6

Court Notes of Evidence
4th November 1969

Cross-examination by Counsel for 2nd Defendant
(continued)

Re-examination

2nd Defendants Counsel closing speech

In the High Court in the Republic of Singapore

Glancing blow from left to right (demonstrates) between Tay Koh Yat bus and motorcycle.

Bus travelling at 30 mph. i.e. 44 f.p.s.

No. 6

1st defendant's estimate of 2nd defendant's speed unreliable.

Court Notes of Evidence

If 2nd defendant had in fact driven at 30 mph he would have wound up well past the junction.

4th November 1969

3rd defendant's evidence: His version untenable - inconsistencies - demeanour. Credibility suspect. Contradicted himself on material points as between what he said here and what he said in Magistrate's Court. 10

2nd Defendants Counsel closing speech continued

He is wholly liable and I ask Court so to find.

3rd Defendants Counsels closing speech

Potts for 3rd defendant:

2nd defendant said he thought 3rd defendant intended to turn right. 20

Onus on 2nd defendant to show 3rd defendant negligent.

Excuse of 2nd defendant inherently unlikely. 3rd defendant 7 to 8 feet away 2nd defendant said he saw 3rd defendant swerve left.

2nd defendant swerved right to get over his previous negligence in failing to observe 3rd defendant on road. 30

Blame wholly on 2nd defendant.

Inconsistencies of 3rd defendant.

12.50 C.A.V. till 10.30 tomorrow.

Sgd. A.V. Winslow

Judgment 5th November 1969

Wednesday, 5th November, 1969

Court: Judgment for plaintiff in the sum of \$5,500 to Public Trustee for plaintiff against 3rd defendant with costs. 40

29.

Claim against 1st defendant and 2nd defendant dismissed with costs.

Costs of Plaintiff, 1st and 2nd defendants to be paid by 3rd defendant.

In the High Court in the Republic of Singapore

Sgd. A.V. Winslow

No. 6

Court Notes of Evidence

5th November 1969

Judgment continued

10

No. 7

ORAL JUDGMENT OF WINSLOW J.
AND SUBMISSIONS OF COUNSEL ON COSTS
dated 5th November 1969

No. 7

Oral judgment of Winslow J. and submissions of Counsel on costs

5th November 1969

His Lordship: Before I proceed to give you my decision in this case, I should like to congratulate all Counsel concerned in these proceedings for the very fair manner in which they have conducted their respective cases and for the very pleasant atmosphere which has prevailed during the last two or three days. Each one has done his best without generating any heat at all, and that is the kind of spirit I like to see from the Bar in this Court, and so I don't think I need say very much more on that.

20

30

Now to turn to this case. I have given the evidence of the witnesses the most careful consideration right from the very beginning and I have read through my notes probably half-a-dozen times since the case began. Last night I went through them again, particularly the evidence of the 2nd and 3rd defendants. This morning I went through them again in conjunction with the transcript of the notes of evidence given

40

In the High
Court in
the Republic
of Singapore

—————
No. 7

Oral judgment
of Winslow J.
and sub-
missions of
Counsel on
costs

5th November
1969

by the 3rd defendant before the
magistrate in the other proceedings.
I have had the advantage of these
photographs and I have also been
through the Agreed Bundle. I think
there is very little I have not read
through or digested.

I have given this case the most
anxious thought. As I observed at one
stage, the battle was really between 10
the 2nd and 3rd defendants. Before I
proceed to deal with them, I will just
repeat what I said yesterday: the 1st
defendant company is absolved from all
responsibility in regard to this
accident, and therefore the claim
against it is dismissed.

Mr. Grimberg: As it pleases you, my Lord.

His Lordship: We will come to the question of costs
a little later. Now, the bus driver 20
of the 2nd defendant company, who
drove the Tay Koh Yat bus, gave
evidence. I was watching him very
carefully and it did seem to me at one
stage that there probably was no lorry
immediately in front of him, but it
makes little difference whether there
was or was not, because insofar as he
is concerned, the lorry did not impede
his view in any way as to whatever 30
was on its offside. I accept his
version that he could see to the right-
hand side of the lorry and that he saw
the motorcyclist, the 3rd defendant,
in the middle of the road.

From the evidence, I am quite
satisfied that the bus driver was
travelling along his correct side of
the road. I am quite satisfied that,
so far as he is concerned, even if he 40
had in fact been travelling at a
slightly higher speed than claimed by
him, he cannot, in all the circumstances,
really be blamed for the accident,
having regard to the facts which I
shall proceed to find with regard to

the strange behaviour of the 3rd defendant motor-cyclist.

10 He is the man who was, as Mr. Wee put it, the causa causans of the whole accident. I observed him very carefully during the course of his evidence and the manner in which he gave it. I have also considered what he said before the magistrate. The record speaks for itself. I think his credit has been successfully attacked by Counsel for the 2nd defendant. I am not satisfied that he has told me the whole truth. I find that he did swerve to his left across the path of the Tay Koh Yat bus driven by the 2nd defendant.

In the High Court in the Republic of Singapore

—
No. 7

Oral judgment of Winslow J. and submissions of Counsel on costs

5th November 1969

continued

20 Having regard to the damage to the motorcycle, the sketch plan showing the course taken by the Tay Koh Yat bus and to the final positions of the vehicles. I don't believe that he fell on the crown of the road as he said here. The motorcycle swung round and faced the opposite direction after the Tay Koh Yat bus had caught it a glancing blow in its attempt to avoid him as he swerved to his left and he must have fallen only a few feet from the nearside of the road. He himself said before the magistrate that he fell towards the left-hand side of the road. That is most probably what happened. I therefore find that he is solely to blame for this accident.

30 I don't think I need say very much more.

40 So there will be judgment in favour of the plaintiff against the 3rd defendant with costs.

Mr. Grimberg: I assume the costs will follow the event, since there is no apportionment of liability? 1st Defendants Counsels submission on costs

In the High
Court in
the Republic
of Singapore

His Lordship: There is no question of apportionment or anything of the sort. What about the 1st defendant's costs?

—
No. 7
Oral judgment
of Winslow J.
and submissions
of Counsel on
costs
5th November
1969
continued
1st Defendants
Counsels
submission on
costs
continued

10

2nd Defendants
Counsels
submission on
costs

Mr. Wee: 1st defendant's costs, well, the 3rd defendant is solely to blame and therefore the principle of equity against the defendant, since Your Lordship has found the 3rd defendant solely liable, I think it is only fair the 3rd defendant should pay the costs of the 1st defendant.

20

His Lordship: What do you say, Mr. Grimberg?

1st Defendants
Counsel

Mr. Grimberg: My Lord, when I said the costs would follow the event, I assumed that they would be paid by Mr. Potts' client, in view of the fact that he has been found solely to blame and in view also of the fact that there were allegations of negligence against the 1st defendant in my learned friend, Mr. Potts' defence. He adopted the allegations of negligence which were put forward in the statement of claim. If there had been an apportionment of liability, of course there might then have been some difficulty.

30

40

His Lordship: So, costs follow the event?

Mr. Grimberg: That is what I meant when I said ----
I don't know whether my learned friend
----?

Mr. Potts: I don't think I can say anything
against, my Lord.

In the High
Court in
the Republic
of Singapore

—
No.7

Oral judgment
of Winslow J.
and sub-
missions of
Counsel on
costs
5th November
1969

10

Mr. Grimberg: My Lord, it might be clearest if your
Lordship says: Judgment for Plaintiff
with costs; the claim against 1st and
2nd defendants be dismissed with costs.

3rd
Defendants
Counsel

1st
Defendants
Counsel

20

His Lordship: Claim against 1st and 2nd, just
dismissed?

Mr. Grimberg: And the costs of the Plaintiff, 1st and
2nd Defendants be paid by the 3rd
defendant

1st
Defendants
Counsel

His Lordship: Costs of Plaintiff, 1st and 2nd
defendants to be paid by the 3rd
defendant. Judgment will be entered for
the plaintiff, in the sum of \$5,500 to
the Public Trustee on her behalf. Now
what about the next case? Incidentally,
I include you (Mr. Murphy) in my earlier
complimentary remarks, although you
didn't figure directly in the other
case.

30

Mr. Murphy: I think I deserve it - I kept very quiet!
In this case, I would ask for judgment
for the plaintiff against the 1st
defendant with costs.

Plaintiff's
Counsel

40

His Lordship: Judgment for plaintiff?

In the High Court in the Republic of Singapore

No. 7

Oral judgment of Winslow J. and submissions of Counsel on costs 5th November 1969

Plaintiff's Counsel

Mr. Murphy: This is Suit 97 of 1967: Judgment for plaintiff for \$7,000 against the 1st defendant with costs.

His Lordship: He is the 1st defendant in that Suit?

Mr. Murphy: Yes.

His Lordship: This is also to the Public Trustee, is it?

Mr. Murphy: Yes, My Lord, and I suppose the 2nd defendant would have judgment with costs, and I ask that the costs be paid by the 1st defendant. 10

His Lordship: Claim against 2nd defendant dismissed with costs.

Mr. Murphy: And the 2nd defendant's costs be paid by the 1st defendant.

His Lordship: Yes. Thank you all.

SINGAPORE,
Wednesday, 5th November, 1969. 20

No. 8
Grounds of decision of Winslow J.
17th December 1970

No. 8

GROUNDS OF DECISION OF WINSLOW J.
dated 17th December, 1969

I annex herewith a transcript of a rough shorthand note taken down by my Private Secretary (slightly amended where indistinct) of my oral judgment herein to which I would like to add the following note. 30

It had been agreed between the parties that the decision in this Suit (No. 2176 of 1966) would bind the parties in Suit No. 97 of 1967 in relation to the same accident.

It was conceded by the 3rd defendant (who is the 1st defendant in Suit No. 97 of 1967) during the trial that the driver of the Hock Lee bus (of the

1st defendant in the present Suit) was not to blame at all. The 2nd defendant in the present Suit similarly attributed no fault to the driver of the Hock Lee bus.

In the High Court in the Republic of Singapore

—
No. 8

Grounds of decision of Winslow J.

17th December 1970

10 The sole question in issue was whether the bus driver of the Tay Koh Yat bus (of the 2nd defendant) who was travelling along his correct side of the road down River Valley Road away from the City down a slight slope or the 3rd defendant, motorcyclist, who had previously been travelling down the same slope ahead of the bus or both were to blame for the collision which occurred between the two buses. The Hock Lee bus had been all along travelling on its own correct side of the road in the opposite direction.

20 I had no hesitation in substantially accepting the version given by the driver of the 2nd defendant in preference to that of the 3rd defendant who was a most evasive witness who continually shifted his ground. I did not believe the 3rd defendant at all on any disputed fact. This is far from saying that the driver of the 2nd defendant was a perfect witness in every way - he was clearly a little shaky on exact distances and speeds - as indeed most witnesses in these cases tend to be but he was a better witness than all the other motorists concerned in the case and I accepted him as a truthful witness as to the crucial issue in this case, i.e. whether the 3rd defendant swerved to his left across his path.

30 If the 3rd defendant had been stationary in the centre of the road giving a signal with his right hand as he claimed and if the 2nd defendant's bus had been travelling on its correct side at a distance of 5 or 6 feet from its nearside edge of the road there was nothing to prevent the 2nd defendant's driver from continuing his journey with absolute safety to all concerned unless that one or the other has been lying outrageously.

40 From the final position of the Tay Koh Yat bus it is clear that it must have been on its correct side before it swerved right. After the collision its offside rear ("H" on AB8) was 7 feet 2 inches from the left hand edge of the road. The road is 30 feet 2 inches wide and the bus is 7 feet 2 inches wide. In short, the whole of the rear of the bus

In the High Court in the Republic of Singapore

after the accident was on its correct side.

If the 3rd defendant had been where he said he was in the middle of the road the bus driver's action is only explicable on the basis that he deliberately swerved into the motorcyclist in order to mow him down and that the latter swerved to his left to avoid the bus.

No. 8
Grounds of decision of Winslow J.
17th December 1970

All things considered, I found that the 3rd defendant was not stationary in the centre of the road when hit. If he had been he would have been killed on the spot. I found that for reasons best known to himself or as a result of his inexperience he changed his mind about entering Leonie Hill Road to his right and swerved to his left across the path of the bus driver who had no alternative except to swerve to the right himself.

10

I therefore found a case of negligence clearly established against the 3rd defendant.

20

I might add that I do not accept as accurate the marked cross on the plan (AB8) made by the 3rd defendant as the place where he remained stationary. He couldn't very well mark it in the middle of the road because he would then have had to place himself under where the bus was in its final position. He ought to thank his lucky stars that the bus driver took the only action which he could to avoid killing him.

30

(SD) A.V. Winslow
JUDGE

SINGAPORE
17th December, 1969.

No. 9
Formal Judgment
19th November 1969

No. 9
F O R M A L J U D G M E N T
dated 19th November, 1969

5th November, 1969

40

This action coming on for trial before the Honourable Mr. Justice Winslow on the 3rd and 4th days of November, 1969 in the presence of Counsel

for the Plaintiff and for the 1st, 2nd and 3rd Defendants AND UPON reading the Pleadings herein AND UPON hearing the evidence adduced by the parties concerned THIS COURT DOTH ORDER that this action do stand for Judgment and upon the same standing for Judgment on the 5th day of November 1969 in the presence of Counsel as aforesaid IT IS ADJUDGED that the Plaintiff do recover from the 3rd Defendant the sum of \$5,500/- by way of damages to be paid by the 3rd Defendant to the Public Trustee in trust for the Plaintiff and costs and that the claim against the 1st and 2nd Defendants be dismissed with costs AND IT IS ORDERED AND ADJUDGED that the Plaintiff's, the 1st and 2nd Defendants' respective costs of and incidental to this action as between Party and Party be taxed and paid by the 3rd Defendant to the Plaintiff's, the 1st and 2nd Defendants' Solicitors respectively AND THIS COURT DOTH FURTHER ORDER that the Plaintiff's costs chargeable on a Solicitor and client basis but not chargeable as between Party and Party be taxed and paid by the Public Trustee to the Plaintiff's Solicitors out of the Plaintiff's monies.

Entered this 19th day of November, 1969 at 3.25 p.m. in Volume CV111 Page 59.

Sd. Tan Kok Quan
Dy. Registrar

(Filed on 19th November, 1969)

No. 10

NOTICE OF APPEAL
dated 19th November, 1969

TAKE NOTICE that the above-named Appellant Chua Chong Cher being dissatisfied with the decision of the Honourable Mr. Justice Winslow given at Singapore on the 5th day of November, 1969 appeals to the Federal Court against that part only of the said decision which decided that liability to the Plaintiff as between the 2nd and the 3rd Defendants rested wholly on the 3rd Defendant alone.

Dated this 19th day of November, 1969.

Sd. Rodyk & Davidson
Solicitors for the Appellant

In the High
Court in
the Republic
of Singapore

No. 8

Formal
Judgment

19th
November
1969

In the
Federal
Court of
Malaysia
Holden at
Singapore
(Appellate
Jurisdiction)

No. 10
Notice of
Appeal
19th November
1969

In the Federal Court of Malaysia Holden at Singapore (Appellate Jurisdiction) To The Registrar, Federal Court, Malaysia, Kuala Lumpur.

And to

No.10 Notice of Appeal 19th November 1969 continued

- (1) The Registrar, High Court, Singapore.
(2) The above-named 1st Respondent and her Solicitors, Messrs. Ong Tiang Choon & Co., Singapore.
(3) The above-named 2nd Respondents and their Solicitors, Messrs. Drew & Napier, Singapore.
(4) The above-named 3rd Respondents and their Solicitor, Mr. A.S.K. Wee, Singapore

10

The Address for service for the Appellant is c/o Messrs. Rodyk & Davidson, 24 Chartered Bank Chambers, Singapore.

20

(Filed on 19th November, 1969)

No.11 Memorandum of Appeal 30th December 1969

No. 11 MEMORANDUM OF APPEAL dated 30th December, 1969

IN THE FEDERAL COURT OF MALAYSIA HOLDEN AT SINGAPORE (APPELLATE JURISDICTION)

30

FEDERAL COURT CIVIL APPEAL No.Y27 OF 1969

B E T W E E N :

Chua Chong Cher Appellant

- and -

- 1. Teo Lang Keow (m.w.)
2. Hock Lee Amalgamated Bus Company Limited
3. Tay Koh Yat Bus Company Limited

Respondents

(In the Matter of Suit No. 2176 of 1966 in the High Court in Singapore at Singapore

In the Federal Court of Malaysia Holden at Singapore (Appellate Jurisdiction)

B E T W E E N :

Teo Lang Keow (m.w.) Plaintiff

- and -

- 1. Hock Lee Amalgamated Bus Company Limited
- 2. Tay Koh Yat Bus Company Limited
- 3. Chua Chong Cher Defendants)

No. 11 Memorandum of Appeal
30th December, 1969
continued

MEMORANDUM OF APPEAL

Chua Chong Cher, the Appellant above-named appeals to the Federal Court against the part of the decision of the Honourable Mr. Justice A.V. Winslow given at Singapore on the 5th day of November 1969 with regard to liability on the following grounds :

- 1. That the learned trial Judge erred in fact and in law :
 - (a) in holding that it made little difference whether there was or was not a lorry immediately in front of the bus driven by the 3rd respondent.
 - (b) in failing to hold that there was no lorry immediately in front of the said bus driven by the 3rd respondent.
 - (c) in failing to appreciate or appreciate sufficiently that the presence or absence of the bus did not go only as to ability of the 3rd respondent to see the Appellant on his motor cycle but also to his, the 3rd respondent, veracity and credibility.
 - (d) in failing to hold that the 3rd respondent was partly to blame in that he only saw the Appellant on his said motor cycle when he was 30 to 40 feet from him when he ought

In the
Federal
Court of
Malaysia
Holden at
Singapore
(Appellate
Jurisdiction)

—————
No.11

Memorandum
of Appeal
30th December
1969
continued

to have seen him much further away.

(e) in failing to hold that the 3rd
respondent failed to exercise sufficient
care when approaching a junction with a
motor cycle stopped in the middle of the
road and with an oncoming bus approaching.

(f) in failing to appreciate that the story
of the 3rd respondent was impossible if
there was in fact a lorry in front of the
3rd respondent's bus. 10

2. The learned trial judge in accepting the 3rd
respondent as a truthful witness failed to appreciate
that on his own story he had been negligent.

Dated this 30th day of December, 1969.

Sd. Rodyk & Davidson
Solicitors for the Appellant 20

To: The Registrar,
Federal Court,
Malaysia,
Kuala Lumpur.

And to:

(1) The Registrar,
High Court,
Singapore.

(2) The above-named 1st Respondent and her
Solicitors, Messrs. Ong Tiang Choon & Co.,
Singapore. 30

(3) The above-named 2nd Respondents and their
Solicitors, Messrs. Drew & Napier,
Singapore.

(4) The above-named 3rd Respondents and their
Solicitor, Mr. A.S.K. Wee,
Singapore.

The address for service of the Appellant is
c/o Messrs. Rodyk & Davidson, 24 Chartered Bank
Chambers, Singapore. 40

41.

No. 12

ADDITIONAL GROUNDS OF APPEAL
dated 12th January, 1970

In the
Federal
Court of
Malaysia
Holden at
Singapore
(Appellate
Jurisdiction)

10 Chua Chong Cher, the Appellant above-named
appeals to the Federal Court against that part of
the decision of the Honourable Mr. Justice A.V.
Winslow given at Singapore on the 5th day of
November 1969 with regard to liability on the
following further grounds.

No. 12

Additional
Grounds of
Appeal

12th January
1970

1. That the learned trial Judge erred in fact in
holding that the bus of the 3rd Respondents swerved
to the wrong side of the road because of any
manoeuvre of the Appellant.

20 2. That the learned trial Judge erred in fact in
holding that the Appellant was the cause of the
accident.

3. That the learned trial Judge erred in fact in
holding that the Appellant swerved to the left after
he had been stationary in the middle of the road.

Dated this 12th day of January 1970.

Sd. Murphy & Dunbar
Solicitors for the Appellant

To: The Registrar,
Federal Court,
Malaysia, Kuala Lumpur.

30 And to :

1. The Registrar,
High Court, Singapore
2. The 1st Respondent and her Solicitors,
Messrs. Ong Tiang Choon & Co., Singapore
3. The 2nd Respondents and their Solicitors,
Messrs. Drew & Napier, Singapore.
4. The 3rd Respondents and their Solicitors,
Mr. A.S.K. Wee, Singapore

40 The address for service of the Appellant is c/o
Messrs. Murphy & Dunbar, H1 Hongkong Bank Chambers,
Battery Road, Singapore.

In the Federal
Court of
Malaysia Holden
at Singapore
(Appellate
Jurisdiction)

COURT OF APPEAL NOTES OF ARGUMENT
dated 12th January, 1970

Coram: Wee Chong Jin, C.J. Monday, 12th January
Tan Ah Tah, F.J. 1970.
F.A. Chua, J.

No. 13

Court of Appeal
Notes of
Argument
12th January,
1970

Murphy for Appellant. 10
Ong Tiang Choon for 1st Respondent.
Grimberg for 2nd Respondent.
A.S.K. Wee for 3rd Respondent.

Murphy: Ong and Grimberg - their clients are
not affected by the appeal.

Ong: I am not interested in this Appeal.

Grimberg: This Appeal will not affect my clients.
Costs of reading the record and appearing 20
today - Ong and I are entitled to an
Order for these costs.

Murphy: Appellant is prepared to pay some costs
to Ong's and Grimberg's clients.

Wee: I am not going to say that Plaintiff
should not have been awarded damages.
I have never blamed Grimberg's clients.

Court: \$150 costs to be paid to Ong's client
and also to Grimberg's client by the 30
party who loses the appeal.

(sgd.) Tan Ah Tah

Murphy: The motor cyclist was waiting to turn
right. His motor cycle was stationary.
Plaintiff had only to show that Tay Koh
Yat bus went to the wrong side of the
road and collided with the Hock Lee bus.

Oon - Hock Lee bus driver - gave
evidence. See p. 18 B 1, 19, 20, 24.

D.W.2 conductor of Hock Lee Bus at p. 24, 22 adds
nothing. 17 40

D.W.3 Tay Koh Yat Bus driver p.^{18 19}~~22~~, ~~23~~.

Motor cyclist could not have had time to do anything which would have caused the Tay Koh Yat driver to swerve to the right. Motor cyclist did not really contradict himself. I submit he was not evasive. He told substantially the same story.

In the Federal Court of Malaysia Holden at Singapore (Appellate Jurisdiction)

10 D.W.3's version - it was impossible for the accident to have happened in the way he described.

Abraham Ho Ah Loke v. William Manson-Hing (1949) M.L.J. 37 at p. 42 per Laville J. Coghlan v. Cumberland (1898) 1 Ch.704 - how far is manner, demeanour and tone important or relevant in assessing the credibility of a witness?

No. 13 Court of Appeal Notes of Argument 12th January 1970 continued

20 The burden was on Tay Koh Yat Bus Company to show that the motor cyclist was negligent. They have failed to discharge that burden.

Adjourned to 2 p.m.

Murphy (continuing): I submit a plan showing the positions of the two buses. Each square is one foot square.

If the motor cyclist moved five feet he would not have been hit. He must have moved four to five feet to bring it to the notice of D.W.3 that he was swerving left.

30 Speed of D.W.3's bus 15 - 20 - 30 m.p.h. p. ~~18B, 19, 24C.~~
p.14 line 21 15 20 line 4

Distance - p. ~~19E, 20A, 20E~~, 5-6, pointed 6 to 7 feet, ~~22E.~~ p.15 lines 28, 37

D.W.3's evidence p. ~~22E~~ - motor cycle was 30 to 40 feet in front of D.W.3's bus. p.16 line 29 18 line 20

D.W.3's evidence ~~24C, 24D.~~ p.20 lines 7, 10
p.22 line 5 p. 26E stationary 10 or 20 feet.
p.18 line 30 p. 22F3 7 to 10 feet.

40 Judge said the motor cyclist was evasive and shifted his ground. I submit Judge was wrong. The motor cyclist did not shift his ground and was not evasive. Judge was relying on the written notes of evidence and not on

In the Federal Court of Malaysia Holden at Singapore (Appellate Jurisdiction)

D.W. 3 might have swerved to the right for some reason not known to us.

I submit that D.W.3 was solely responsible for the collision.

Wee: In the agony of the moment D.W.3 had no alternative but to swerve right.

No. 13 Court of Appeal Notes of Argument 12th January 1970 continued

D.W.1 (driver of Hock Lee bus) p. ~~48, 49~~^{14, 15}; ~~2032~~ p. 6 line 5

10

Judge at p. ~~36~~^{p. 36 line 21} accepted D.W.3 as a truthful witness.

Bus was 7 feet 2 inches wide. If motor cyclist's version is the true one, it remains unexplained how the motor cycle came to rest where it did - 3 feet 10 inches from the edge of the road.

The plan submitted by Murphy is not complete. The speed of D.W.3's bus is not stated. The distance between the motor cycle and bus is not shown.

20

Murphy: I apply for leave to amend the memorandum of appeal. (tenders additional grounds of appeal).

Wee: I have no objection.

The application is granted.

(Sd.) Tan Ah Tah

Wee: We do not know how far the motor cyclist moved. I submit that the distances were not correctly stated.

30

In any event, I submit the bus driver saw the motor cyclist swerving to the left and to avoid him swerved to the right.

Court: Appeal allowed with costs here and in the court below. 3rd Respondent to pay the costs of the other parties in the court below and also to pay \$150 costs to the 1st Respondent and \$150 costs to the 2nd Respondent being their costs for today's proceedings. Deposit to be paid out to the Appellant or his solicitors. Reasons to be given later.

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(sd.) Tan Ah Tah

JUDGMENT OF THE FEDERAL COURT OF APPEAL
dated 9th February, 1970

Coram: Wee Chong Jin, C.J.
 Tan Ah Tah, F.J.
 Chua, J.

In the
 Federal
 Court of
 Malaysia
 Holden at
 Singapore
 (Appellate
 Jurisdiction)

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JUDGMENT

At the conclusion of the hearing we allowed the appeal indicating that we would give our reasons at a later date. We now proceed to do so.

The first respondent, a passenger in a bus No. SH.706 belonging to the second respondent, was injured as a result of a collision between bus No. SH.706 and a bus No. SH.190 belonging to the third respondent. She brought an action in the High Court against the first and second respondents as well as against the appellant, the owner and rider of motor cycle No. SAG.3250 which was also involved in the same collision. The first respondent alleged her injuries were caused by the negligent driving of the servant of the second respondent, or alternatively by the negligent driving of the servant of the third respondent, or alternatively by the negligent riding of the appellant or alternatively on the part of any two or all of them.

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The High Court gave judgment for the first respondent in the sum of \$5,500 against the appellant the owner of the motor cycle and dismissed with costs the claim against the second and third respondents. It was ordered that the first, second and third respondents' costs of the action as between party and party be taxed and paid by the Appellant.

The appellant appeals against that part of the learned Judge's decision with regard to liability.

40

The undisputed facts were shortly these. The appellant stopped his motor cycle in the middle of River Valley Road intending to turn right into Leonie Hill Road. Bus SH.706 (hereinafter referred to as the Hock Lee bus) was coming from the opposite direction along River Valley Road. Bus SH.190 (hereinafter referred to as the Tay Koh Yat Bus) was coming along

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No.14
 Judgment of
 the Federal
 Court of
 Appeal read
 by Chua J.
 9th February
 1970

In the Federal
Court of
Malaysia
Holden at
Singapore
(Appellate
Jurisdiction)

River Valley Road behind the appellant's motor cycle. On reaching the appellant's motor cycle the Tay Koh Yat bus suddenly swerved to its right collided with the motor cycle and went to the wrong side of the road and collided into the Hock Lee bus. As a result of the collision between the two buses the first respondent, who was a passenger in the Hock Lee bus, sustained personal injuries.

No.14
Judgment of
the Federal
Court of
Appeal read
by Chua J.
9th February
1970
continued

During the trial it was conceded by the appellant that the driver of the Hock Lee bus was not to blame at all. The third respondent similarly attributed no fault to the driver of the Hock Lee bus. The contest was then between the appellant and the third respondent. The learned trial Judge said :

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" The sole question in issue was whether the bus driver of the Tay Koh Yat bus (of the 2nd defendant) who was travelling along his correct side of the road down River Valley Road away from the City down a slight slope or the 3rd defendant, motor-cyclist, who had previously been travelling down the same slope ahead of the bus or both were to blame for the collision which occurred between the two buses. The Hock Lee bus had been all along travelling on its own correct side of the road in the opposite direction. "

20

The evidence of the appellant was that he was stationary in the middle of the road. He heard a loud sound behind him. When he turned his head round to look, the Tay Koh Yat bus came and collided into him and then went to the other side of the road and collided into the Hock Lee bus.

30

The driver of the Tay Koh Yat bus said that he was travelling behind a lorry at a speed of between 15 to 20 m.p.h. He saw a motor cycle in the middle of the road waiting to turn right into Leonie Hill Road. After the lorry had passed the motor cycle, on the motor cycle's left, and when he was 7 to 10 ft. from the motor cycle, the motor cycle suddenly swerved left across his path. He swerved violently to the right to avoid colliding with the motor cycle and went to the wrong side of the road and on seeing vehicles approaching from the front he swerved to the left and there was a collision with the Hock Lee bus which was coming from the opposite direction.

40

The driver of the Hock Lee bus said that he did not see any other vehicle involved in the accident and he did not know why the Tay Koh Yat bus swerved to its right.

The learned trial Judge found that the appellant swerved to his left across the path of the Tay Koh Yat bus and he found that the appellant was solely to blame for the accident. In his Grounds of Decision the learned Judge said :

" All things considered, I found that the 3rd Defendant was not stationary in the centre of the road when hit. If he had been he would have been killed on the spot. I found that for reasons best known to himself or as a result of his inexperience he changed his mind about entering Leonie Hill Road to his right and swerved to his left across the path of the bus driver who had no alternative except to swerve to the right himself. "

It must be borne in mind that this claim is by a passenger who was travelling in the Hock Lee bus and that the collision was between the two buses. It was the Tay Koh Yat bus that went to the wrong side of the road and collided into the Hock Lee bus. The onus, therefore, rests upon the third respondent to show that the Tay Koh Yat bus went to the wrong side of the road without any negligence on the part of their driver.

The main question is, has the third respondent discharged that onus? In our view they have not.

The trial Judge accepted the evidence of the driver of the bus and rejected the evidence of the motor cyclist on the ground that if the motor cyclist had remained stationary he would have been killed on the spot and also that he was a most evasive witness who continuously shifted his ground. The trial Judge accordingly preferred the version given by the driver of the bus.

It is clear, therefore, that the trial Judge did not base his preference for the version of the driver of the bus on demeanour and furthermore this Court, as an appellate Court, is under a duty to rehear the case by examining the evidence and arriving at its own finding, but always bearing in mind it has neither seen nor heard the witnesses and paying due

In the
Federal
Court of
Malaysia
Holden at
Singapore
(Appellate
Jurisdiction)

—————
No. 14
Judgment of
the Federal
Court of
Appeal read
by Chua J.

9th February
1970
continued

In the Federal Court of Malaysia Holden at Singapore (Appellate Jurisdiction)

No. 14
Judgment of the Federal Court of Appeal read by Chua J.

9th February 1970
continued

regard to the trial Judge's finding and his reasons therefor. The fact that the motor cyclist would have died on the spot had he remained stationary is a conclusion which, in our opinion, cannot be supported on the evidence before him. That conclusion seems to us to be a matter of pure conjecture. Again the conclusion of the trial Judge that the motor cyclist continuously shifted his ground in his evidence cannot be supported. He told a simple story from beginning to end namely that he remained stationary on the middle of the road waiting to turn right into Leonie Hill Road when he was hit by the bus and thrown clear to the left. 10

The question remains, which version is the more probable of the two? It is impossible to accept as true or possible the bus driver's evidence that travelling at a speed of between 15 to 20 m.p.h., his bus not more than 7 to 10 feet from the motor cyclist, stationary on the middle of the road, that the motor cyclist could swerve left suddenly and be across the path of his bus and that he could manage to, at the same time, swerve violently right and manage to strike a mere glancing blow on the motor cycle. 20

As often happens, a Court on the evidence before it, has to decide which of two conflicting versions is the version to accept. In such a case, a Court in considering which is the more probable one, ought to try and derive what assistance it can get from undisputed facts, if any, which are relevant for the purpose. A court also ought to consider, from undisputed facts, whether a version put forward as evidence is one which is inherently improbable or not. 30

For all these reasons, we had no hesitation at the conclusion of the hearing in coming to the conclusion that the motor cyclist' version was the more probable one and accordingly we allowed the appeal. 40

(Sd.) Wee Chong Jin
CHIEF JUSTICE

(Sd.) Tan Ah Tah
JUDGE

(Sd.) F. A. Chua
JUDGE

Dated this 9th day of February, 1970.
(The Judgment of the Court was read by Chua, J.)

ORDER OF THE FEDERAL COURT OF APPEAL
dated 12th January, 1970

In the
Federal
Court of
Malaysia
Holden at
Singapore
(Appellate
Jurisdiction)

Coram: Mr. Justice Wee Chong Jin, C.J.
Mr. Justice Tan Ah Tah, J.
Mr. Justice Chua, J.

10

In Open Court
This 12th day of January, 1970

No. 15

Order of the
Federal Court
of Appeal

12th January
1970

O R D E R

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THIS APPEAL coming on for hearing this day in the presence of Mr. Denis Hubert Murphy of Counsel for the Appellant/3rd Defendant, Mr. Ong Tiang Choon of Counsel for the 1st Respondent/Plaintiff, Mr. Joseph Grimberg of Counsel for the 2nd Respondent/1st Defendant and Mr. A.S.K. Wee of Counsel for the 3rd Respondent/2nd Defendant AND UPON READING the Record of Appeal filed herein on the 30th day of December 1969 AND UPON HEARING what was alleged by Counsel for the Appellant and for the Respondents IT IS ORDERED that this Appeal be allowed and that the Judgment of the Honourable Mr. Justice Winslow dated the 5th day of November 1969 be wholly set aside AND IT IS ADJUDGED that the Plaintiff do recover against the 2nd Defendant the sum of \$5,500-00 by way of damages to be paid by the 2nd Defendant to the Public Trustee in trust for the Plaintiff and that the claim against the 1st and 3rd Defendants be dismissed AND IT IS ORDERED AND ADJUDGED that the Plaintiff's and the 1st and 3rd Defendants' respective costs of this action in the Court below as between party and party be taxed and paid by the 2nd Defendant to the Plaintiff's and the 1st and 3rd Defendants respective solicitors AND IT IS FURTHER ORDERED that the 2nd Defendant do pay the sum of \$150-00 to the Plaintiff's solicitors as the Plaintiff's costs of this Appeal as between party and party and the sum of \$150-00 to the 1st Defendant's solicitors as the 1st Defendant's costs of this Appeal as between party and party and that the 3rd Defendant's costs of this Appeal as between party and party be taxed and paid by the 2nd Defendant to the 3rd Defendant's solicitors AND IT IS FURTHER ORDERED that the sum of \$500-00 paid by the 3rd Defendant into Court as security for the costs of this Appeal be paid out to the 3rd Defendant's solicitors

In the Federal Court of Malaysia Holden at Singapore (Appellate Jurisdiction)

AND IT IS LASTLY ORDERED that the Plaintiff's costs of this action in the Court below chargeable on a solicitor and client basis but not chargeable as between party and party be taxed and paid by the Public Trustee to the Plaintiff's solicitors out of the Plaintiff's monies.

GIVEN under my hand and the Seal of the Court this 12th day of January 1970.

No. 15

Order of the Federal Court of Appeal
12th January 1970
continued

Sd. Tan Kok Quan
Asst. Registrar

10

No. 16

Order granting Leave to Appeal to the Judicial Committee of the Privy Council
6th April 1970

No. 16

ORDER GRANTING LEAVE TO APPEAL TO THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL
dated 6th April, 1970

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CORAM: THE HONOURABLE MR. JUSTICE TAN AH TAH, ACTING CHIEF JUSTICE, SUPREME COURT,
THE HONOURABLE MR. JUSTICE WINSLOW, JUDGE, SUPREME COURT, AND
THE HONOURABLE MR. JUSTICE D'COTTA, JUDGE, SUPREME COURT.

IN OPEN COURT

THIS 6TH DAY OF APRIL, 1970

30

O R D E R

UPON MOTION made before this Honourable Court this day by Mr. Mohamed bin Abdullah of Counsel for the above-named Third Respondents/Second Defendants, in the presence of Mr. Dennis Hubert Murphy and Mr. Ong Tiang Choon of Counsel for the above-named Appellant/Third Defendant and the above-named First Respondent/Plaintiff respectively, and the Second Respondents/First Defendants although having been served with the Notice of Motion, Motion Paper and Affidavit in support but not appearing, AND UPON reading the Notice of Motion and Motion Paper both dated

40

10 the 27th day of February, 1970 and the Affidavit of Ng Seng Hua affirmed on the 25th day of February 1970 and filed herein on the 27th day of February, 1970 AND UPON hearing Counsel as aforesaid IT IS ORDERED that leave be and is hereby granted to the above-named Third Respondents/Second Defendants to appeal to the Judicial Committee of Her Britannic Majesty's Privy Council AND IT IS ORDERED that the costs of this Motion be costs in the said Appeal, AND IT IS FURTHER ORDERED that the Judgment of the Court of Appeal dated the 12th day of January 1970 be carried into execution.

GIVEN under my hand and the Seal of the Supreme Court, this 6th day of April, 1970.

Sd. Tan Kok Quan

20 Asst. Registrar,
Supreme Court, Singapore

In the Federal Court of Malaysia Holden at Singapore (Appellate Jurisdiction)

No. 16

Order granting Leave to Appeal to the Judicial Committee of the Privy Council

6th April 1970

continued

PLAINTIFF'S EXHIBITS

EXHIBIT AB (1)

Police Report No. 23360
dated 12th May 1966

Plaintiff's Exhibits

Exhibit AB (Police Report 12th May 1966

For Police use only	REPORT INVOLVING A VEHICLE	Station of origin	RE	23360
		Station Diary No.		
ORIGINAL	Duplicate passed for action to: "B" 23360	Time and date when this was made 12/5/66 3:16 a.m.		
Particulars of Informant	Full name: <u>Qou Long Kiang</u>	Address: <u>149, Dyed Akur Road</u>	Occupation: <u>Driver</u>	Sex: <u>M</u> Age: <u>48</u> Race: <u>Malay</u> Language: <u>Malay</u> NRIC No: <u>50-00315</u>
Registration No.	Particulars of vehicle involved: Particulars of driver of vehicle		Particulars of vehicle insurance	
<u>SH-706</u>	(If the driver is the informant, write informant against N.R.I.C. No., Name and address)		(for accident cases only) Insurance Co.	
Type: <u>Bus</u>	Name: <u>Informant</u>	Insurance Certificate No.		
Make: <u>-</u>	Address: <u>Informant</u>	Expiry date of Certificate		
Colour: <u>Red & Yellow</u>	Driving Licence No.	Expiry date of driving licence.	Expiry date of Certificate	
Brief details (including extent of damage, if any, and a sketch plan overleaf in all cases of alleged dangerous, negligent or inconsiderate driving) ENDING WITH SIGNATURE OF INFORMANT.				
At <u>12:50</u> on <u>9/3/66</u> at <u>River Valley Rd - 2</u>				
Was driving the Bus SH-706 from <u>Pakewell Road</u> into <u>River Valley Rd</u> opposite <u>River Valley Chinese School</u> another <u>Grey New Year Bus</u> (no not known) coming from the opposite direction came and I was involved in a headlong crash. The road was dry and visibility clear. I was keeping to the left side of the road. There were passengers in my bus. After the headlong crash I don't know what happened, and I realised that I was wounded at <u>Wd 7</u> . I sustained head & chest, leg & hand injury. That is all I have to say.				
Signature of officer recording the report: <u>Alvarez</u>		Rank: <u>Supt</u> No.		Signature of interpreter (if any): <u>[Signature]</u> 12341.
Description of Offence:		DO NOT WRITE IN THIS SPACE. DIARY OVERLEAF.		

EXHIBIT AB(2)

Translation of Police Report No. 12852
by Chua Chong Cher dated 9th March 1966

Plaintiff's
Exhibits

Exhibit AB(2)

Station of Origin : 515 Report No. 12852

Station Diary No. 1250

Duplicate passed for action to: SL.

Time and date when this report was made: 1505 p.m.
9/3/66

Translation of
Police Report
No. 12852

9th March 1966

Full Name: CHUA CHONG CHER

Address: 52-6 Holland Road Occupation: Attuey

10 Sex: M Age: 26 Race: Hokkien

Language: Chinese N.R.I.C. No. S6A 00788

Registration No. SAG 3250 Type: M/cycle

Make: Honda Colour: Blue

Driving Licence No. PD/z 129045/66

Expiry date of driving licence: 26/7/66

Insurance Co.: Provincial Insurance Co. Ltd.

Expiry date of certificate: 26/1/67

20 At 1430 hrs on 9/3/66 at River Valley Rd.
I was riding a m/cycle from town towards Lornie
Hill Flat. I stopped in the centre of the road
because a m/car from the opposite direction was
turning to the left into Lornie Hill Flat. Just
then a Tay Koh Yat m/bus No. ? hit the rear of my
m/cycle. I fell off. Left cheek was slightly
injured and sustained abrasion on the right and
left elbows and on left leg. Damage to m/cycle -
No. Plate and rear wheel bent. Come to the station
and make a report.

30 (sd.) Chua Chong Cher
(in Chinese)

Signature of officer recording
the report: (sd.) illegible

Rank: Cpl No. 2838

Signature of Interpreter (if any): (sd.) Lee 6843

EXHIBIT AB (3)

Plaintiff's Exhibits

Original Police Report No. 12852 of Chua Chong Cher dated 9th March 1966

Exhibit AB (3) Original Police Report No. 12852 of Chua Chong Cher 9th March 1966

For Police use only above this line	SINGAPORE POLICE FORCE REPORT INVOLVING A VEHICLE		Station of origin 515		Report No. 12852		12/66	
	ORIGINAL		Duplicate passed for action to: SL		Station Diary No. 1280		Time and date when this report was made 1205 hrs 9/3/66	
Particulars of Informant	Full name CHUA CHONG CHER			Address 53-G, Holland Rd				
	Occupation	Sex	Age	Race	Language	NRIC No.		
Particulars of vehicle involved		Particulars of driver of vehicle		N.R.I.C. NO.		Particulars of vehicle insurance		
Registration No.	Type		Name		Address		(for accident cases only) Insurance Co. Prudential	
Make	Colour		Driving Licence No.		Expiry date of driving licence		Expiry date of Certificate	
Brief details (including extent of damage, if any, and a sketch plan overlaid in all cases of alleged dangerous, negligent or inco n- sistent driving) ENDING WITH SIGNATURE OF INFORMANT								
At (time) 1200 hrs on (date) 9/3/66 at (place) River Chua Chong Rd.								
Saya, ado merawau my cycle dari Town ning halor dia, Locher Hill Plate, saya ad. pibinti di trigan jalan papan my car dari dipanti beraw. peole car kanan kerok Loros Hill Plate, bagitu jug.								
My Bus, Ht. ? my Coyat Bus								
Signature of officer recording the report			Rank			Signature of interpreter (if any)		
Description of Offence:			- Accident -					

tanjangan betakang my cycle saya. saya pun jatuh, air Celak. Saccibat di pipi kiri, di siku kanan, dan kiri ada nila. dan di kaki kiri, kerosakan motor cycle No: Plate & Roda betakang bingkek, paku datang stw. ins. apr 1966

Certified true copy of report.
 J.C. [Signature]
 Traffic Police, Singapore

EXHIBIT AB(4)

Translation of Police Report No. 26934
of S. Ramasamy dated 31st May 1966

Plaintiff's
 Exhibits

Exhibit AB(4)

Station of Origin: 515 S/L Report No. 26934
 Station Diary No. 2267
 Time and date when this report was made: 1030 hrs.
 31/5/66

Translation of
 Police Report
 No. 26934 of
 S.Ramasamy

31st May 1966

Full Name: S. RAMASAMY

Address: No. 5, Wei Hua Rd. (27)

Occupation: Driver Sex: M Age: 38

10 Race: India Language: Malay

N.R.I.C. No. S5s. 09502

Registration No. SH 190 Type: Bus

Colour: Black Red

Driving Licence No. S. 7273/54

Expiry date of driving licence: 11/10/66

At 1420 Hrs on 9/3/66 at River Valley Rd. x
 Leonie Hill Rd.

20 I was driving bus SH 190 from Tank Road to go
 to Kim Seng Road. On reaching at the said place
 in front of my bus was a m/cycle No. ? in the
 centre and did not know where it was going.
 Once the m/cycle went towards the left and I
 swerved to the right to avoid it. Then a Hock
 Lee bus No. ? came from the opposite direction
 and I served to the left but a collision
 occurred. I did not know anything else.
 When I regained consciousness I was in the
 Hospital.

(sd). illegible.

30 Signature of officer recording
 the report: (sd.) illegible

Rank: Cpl. No. 2833

EXHIBIT AB (5)

Plaintiff's Exhibits

Original Police Report No. 26934 of S. Ramasamy dated 31st May 1966

Exhibit AB (5)
Original Police Report No. 26934 of S. Ramasamy
31st May 1966

For Police use only above this line	SINGAPORE POLICE FORCE REPORT INVOLVING A VEHICLE	Station of origin 515. 2/1	Report No. 26934 Station Diary No. 2287	Admission No. 163 66
	ORIGINAL	Duplicate passed for action to:—	Time and date when this report was made 10.20 hrs a.m. 31/5/66	

Particulars of Informant	Full name	S. RAMASAMY.				Address	No: 5 WEI HUA RD (27)			
	Occupation	Sex	Age	Race	Language	NRIC No.	DRIVER. M. 38 INDIAN MALAY. S/S. 0902			

Particulars of vehicle involved	Particulars of driver of vehicle	N.R.I.C. NO.	Particulars of vehicle insurance
Registration No. SH.190.	(If the driver is the informant, write "informant" against N.R.I.C. No., Name and address)		(for accident cases only), Insurance Co.
Type Bus.	Name		Insurance Certificate No.
Make	Address		
Colour Hitam, MERALU.			
Unladen Wt. (lorries or vans)	Driving Licence No. S. 7279/50	Expiry date of driving licence. 11.10.66.	Expiry date of Certificate

Brief details (including extent of damage, if any, and a sketch plan overleaf in all cases of alleged dangerous, negligent or inconsiderate driving) ENDING WITH SIGNATURE OF INFORMANT.

At 14.00 hrs. on 31.3.66. at RIVER VALLEY RD. 2. LEONIE HILL RD. dan tank Rd.

Daya ada jatuhkan bus SH. 190 dan tank Rd. mahu pergi. Kim Seng Rd. sampai di. tempat tersebut. depan bus. saya ada m/cycle. No: ? di tengah, tiada tahu mahu pergi. Satu kali itu m/cycle. masuk kiri daya elakkan kematu. lalu satu bus. No: ? Jack Lee. bus.

Signature of officer recording the report: *[Signature]* Rank: *[Signature]* No. 2833. Signature of interpreter (if any):

Diary/Continuation of Report and Sketch Plan (if any) 114668 31

datang dan depan daya elakkan kiri. lalu sudah langgar fain, daya tiada tahu. bila seketor ada di hadapan Herisikal

J. C. Accident Investigation
Traffic Police, Singapore

EXHIBIT AB(6)

Translation of Police Report No. 16608
of Teo Lan Keow dated 1st April 1966

Plaintiff's
 Exhibits

Exhibit AB(6)

Station of Origin: 515 S/Lines Report No.16608
 Station Diary No. 59
 Time and date when this report was made: 1450 hrs.
 1.4.66

Translation of
 Police Report
 No. 16608 of
 Teo Lan Keow
 1st April 1966

Full Name: TEO LAN KEOW

Address: 21, Eng Hoe Rd. Occupation: Jaga

10 Sex: F Age: 51 Race: Khek

Language: Malay N.R.I.C. No. SS. 03089

At 1415 hrs on 9.3.66 at River Valley Rd.
 I was travelling in Hock Lee Bus SH 706 from
 Holland Road to Singapore town. On reaching at
 River Valley Road near Lornie Road I fell down
 in the bus because the bus in which I was
 travelling had a collision. I was unconscious.
 When I regained consciousness the ambulance
 arrived and brought me to the Hospital.

20

(sd.) Teo Lan Keow
 (in Chinese)

EXHIBIT AB (7)

Plaintiff's Exhibits

Original Police Report No. 16608 of Teo Lan Keow dated 1st April 1966

Exhibit AB (7)
Original Police Report No. 16608 of Teo Lan Keow
1st April 1966

SINGAPORE POLICE FORCE		Station of origin		Report No. 16608	
REPORT INVOLVING A VEHICLE		S/Lines		Station Diary No. 59	
ORIGINAL		Duplicate passed for action to:—		Time and date when this report was made 1450 hrs a.m. 1. 4 66	
Particulars of Informant			Address		
Full name TEO LAN KEOW			21 Eng Hoe Rd.		
Occupation Jaya		Sex F	Age 51	Race Khek	Language Malay
				NRIC No. S: 03089	
Particulars of vehicle involved		Particulars of driver of vehicle		N.R.I.C. NO.	
Registration No.		(If the driver is the informant, write "informant" against N.R.I.C. No., Name and address)			
Type		Name			
Make		Address			
Colour				Insurance Certificate No.	
Unladen Wt. (trucks or vans)		Driving Licence No.		Expiry date of driving licence.	
				Expiry date of Certificate	
Brief details (including extent of damage, if any, and a sketch plan overleaf in all cases of alleged dangerous, negligent or inconsiderate driving) ENDING WITH SIGNATURE OF INFORMANT.					
At (time) 1415 hrs on (date) 9. 3. 66 at (place) Rivier Valley Rd.					
Sergei naik Hock Lee bus SH 706 dari Holland Rd.					
tubuh Spore Town, bila sampai Rivier Valley Rd.					
ditet Lornie Rd sergei sudah jatuh dalam Bus					
sebab bus yang sergei naik sudah terlanggar					
sergei ter sader diri, bila sergei ingot samak.					
sudah datang ambulans bawa sergei ke Hospital N/2.					
Signature of officer recording the report _____ Rank _____ No. _____					
Signature of interpreter (if any) _____					
Description of Offence:					
DO NOT WRITE IN THIS SPACE DIARY OVERLEAF					

EXHIBIT AB (8)

Police Sketch Plan
dated 9th March 1966

Plaintiff's
Exhibits

Exhibit AB (8)
Police Sketch
Plan
9th March 1966

18/01823/66/515

Peta Chantoh Tempat Perlembagaan

Report No.12592.12852.13762.

River Valley Road
to
Lim Seng Road

Locmo Hill Road
to
Greeng Road

River Valley Road
to
Tank Road

[Handwritten signature]

[Handwritten signature]
In front of 515.

EXHIBIT AB(9)

Plaintiff's
Exhibits

Translation of Key to Plan Report
No. 12592, 12852 and 13762 dated
9th March 1966

Exhibit AB(9)

TP/Acc/A/4127/66

Translation of
Key to Plan
Report No.
12592, 12852
and 13762

Report No. 12592, 12852, 13762.

K E Y T O P L A N

9th March 1966

<u>Sr.</u>	<u>Letters</u>	<u>Alleged Occurrence</u>	<u>Authority</u>
10	A & B	Left and right edges of River Valley Road towards Kim Seng Road.	Cpl. 515
	C & D	Left and right edges of Leonie Hill Road towards Grange Road.	"
	E	Position of m/cycle SAG 3250 lying on its right side in River Valley Road.	"
	F	Position of m/bus SH 190 in River Valley Road towards Kim Seng Road.	"
20	G & H	Nearside front and rear ends of the body of the m/bus SH 190 in River Valley Road.	"
	J	Position of m/bus SH 706 in River Valley Road towards Tank Road.	"
	K & L	Nearside front and rear ends of the body of m/bus SH 706 in River Valley Road.	"

Measurements

	A to B	30' 02"
	C to D	21' 02"
30	A to G	18' 03"
	A to H	07' 02"
	A to E	03' 10"
	H to E	11' 02"
	K to B	Level
	L to B	Level
	F to J	close
	L to C	14' 07"

Note:

	M/Bus SH 190	(sd.) illegible
40	LENGTH	27' 02"
	WIDTH	07' 02"
	M/Bus SH 706	f. O.C. Traffic Accidents Investigation, Sepoy Lines Police Station, Singapore 2.
	LENGTH	25' 07"
	WIDTH	07' 02"
	M/Cycle	(sd.) Bujang 9/3/66
	LENGTH	05' 06"
		Bujang Cpl. 515

Plaintiff's
Exhibits

EXHIBIT AB(10)

Exhibit AB(10)

Original Key to Plan Report No. 12592,
12852 and 13762 dated 9th March 1966

Report No. 12592, 12852, 13762

Original Key
to Plan

K E Y T O P L A N

Report No.
12592, 12852
and 13762

Sr.
Letters

Alleged Occurrence

Authority
Remarks

9th March 1966

A & B	Tepi kiri dan kanan jalan River Valley Rd menhala Kim Seng Rd.	Cpl.515.	
C & D	Tepi kiri dan kanan jalan Leonie Hill Rd menhala Grence Rd.	"	10
E	Kedudok-kan M/Cycle SAG.3250 rebah ka-kanan di-atas jalan River Valley Rd.	"	
F	Kedudok-kan M/Bus SH.190 di-atas jalan River Valley Rd menhala Kim Seng Rd.	"	
G & H	Hujung body depan dan hujung body belakang sebelah kiri M/Bus SH.190 di-atas jalan River Valley Rd.	"	
J	Kedudok-kan M/Bus SH.706 di-atas jalan River Valley Rd menhala Tank Rd.	"	20
L	Hujung body depan dan hujung body belakang sebelah kiri M/Bus SH.706 di-atas jalan River Valley Rd.	"	

" U K O R A N - N Y A "

A to B..... 30'02"
C to D..... 21'02"
A to G.....18'03"
A to H..... 07'02"
A to E..... 03'10"
H to E..... 11'02"
K to B..... Paras"
L to B..... Paras"
F to J..... Rapat"
L to C..... 14'07"

30

Ingatan:-

M/Bus SH.190
Panjang..... 27'02"
Besar 07'02"
M/Bus SH.706
Panjang..... 25'07"
Besar 07'02"
M/Cycle SAG.3250
Panjang..... 05'06"

(sd.) illegible

f. O.C. Traffic Accidents Investigatio
Sepoy Lines Police Station,
Singapore 2.

40

(sd.) Bujang 9/3/66
.....
Bujang Cpl.515.

3rd DEFENDANT'S EXHIBITS

EXHIBIT P1(A)

Photograph showing position of
vehicles after collision
(undated)

3rd Defendant's
Exhibits

Exhibit P1(A)

Photograph
showing position
of vehicles
after collision
(undated)

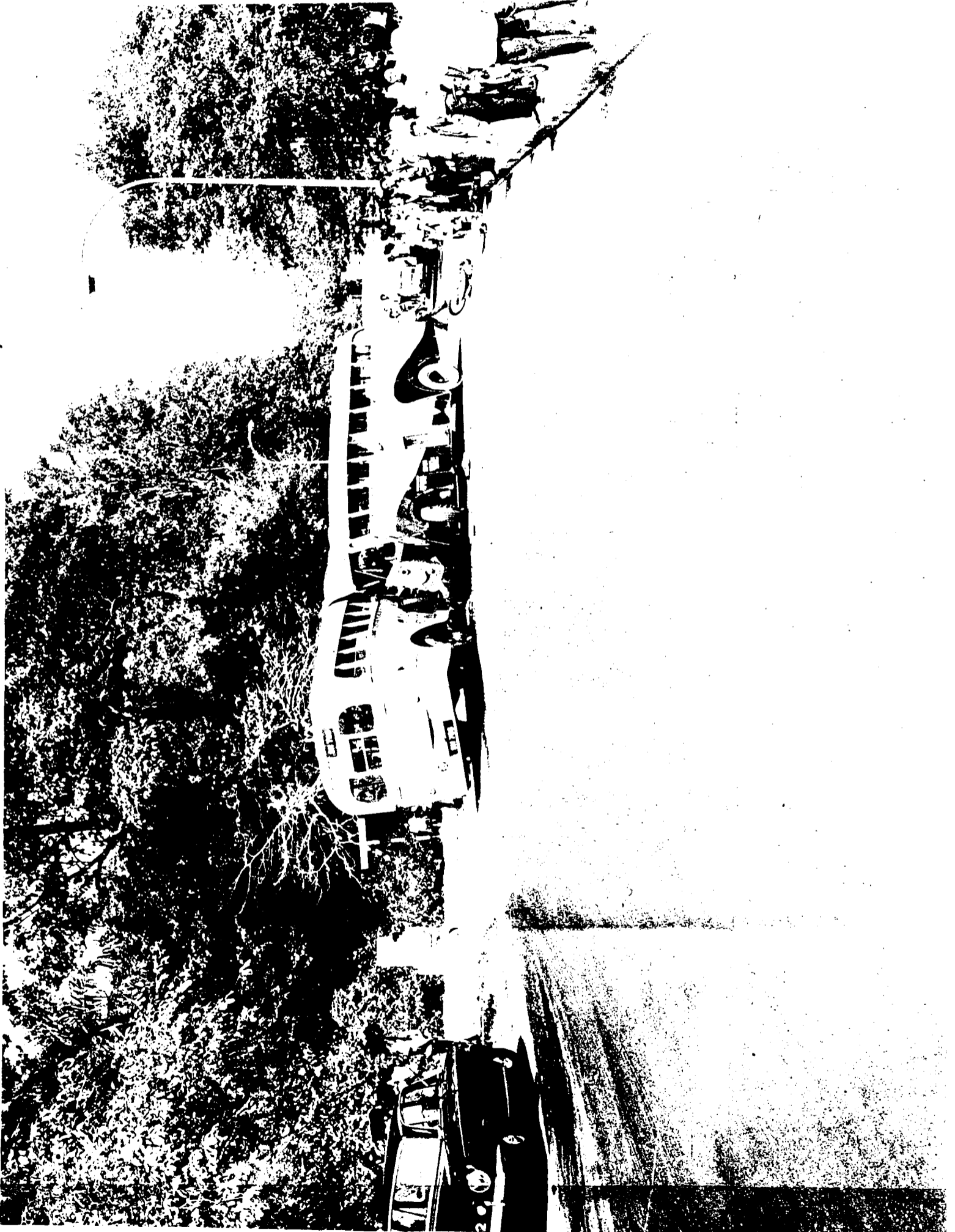


EXHIBIT P1(B)

Close-up photograph of two of
the vehicles involved in the
accident (undated)

3rd Defendant's
Exhibits

Exhibit P1(B)
Close-up photo-
graph of two of
the vehicles
involved in the
accident
(undated)

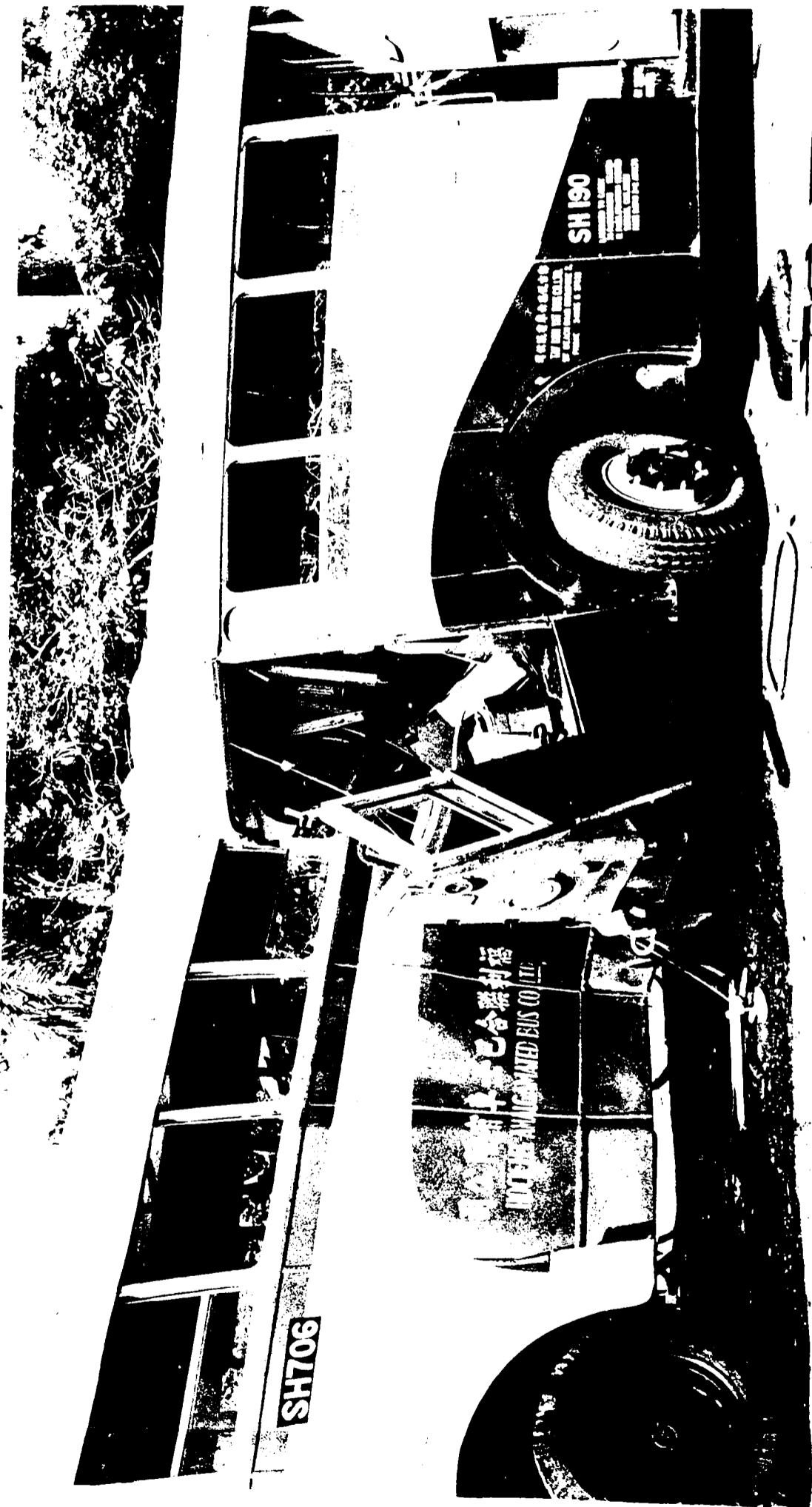


EXHIBIT P1(C)

Photograph of one omnibus and
motor-cycle after the collision
(undated)

3rd Defendant's
Exhibits

Exhibit P1(C)
Photograph of
one omnibus and
motor-cycle after the
collision
(undated)



EXHIBIT P1(D)

Photograph of all three vehicles
involved in the accident (undated)

3rd Defendant's
Exhibits

Exhibit P1(D)
Photograph of
all three
vehicles
involved in the
accident
(undated)

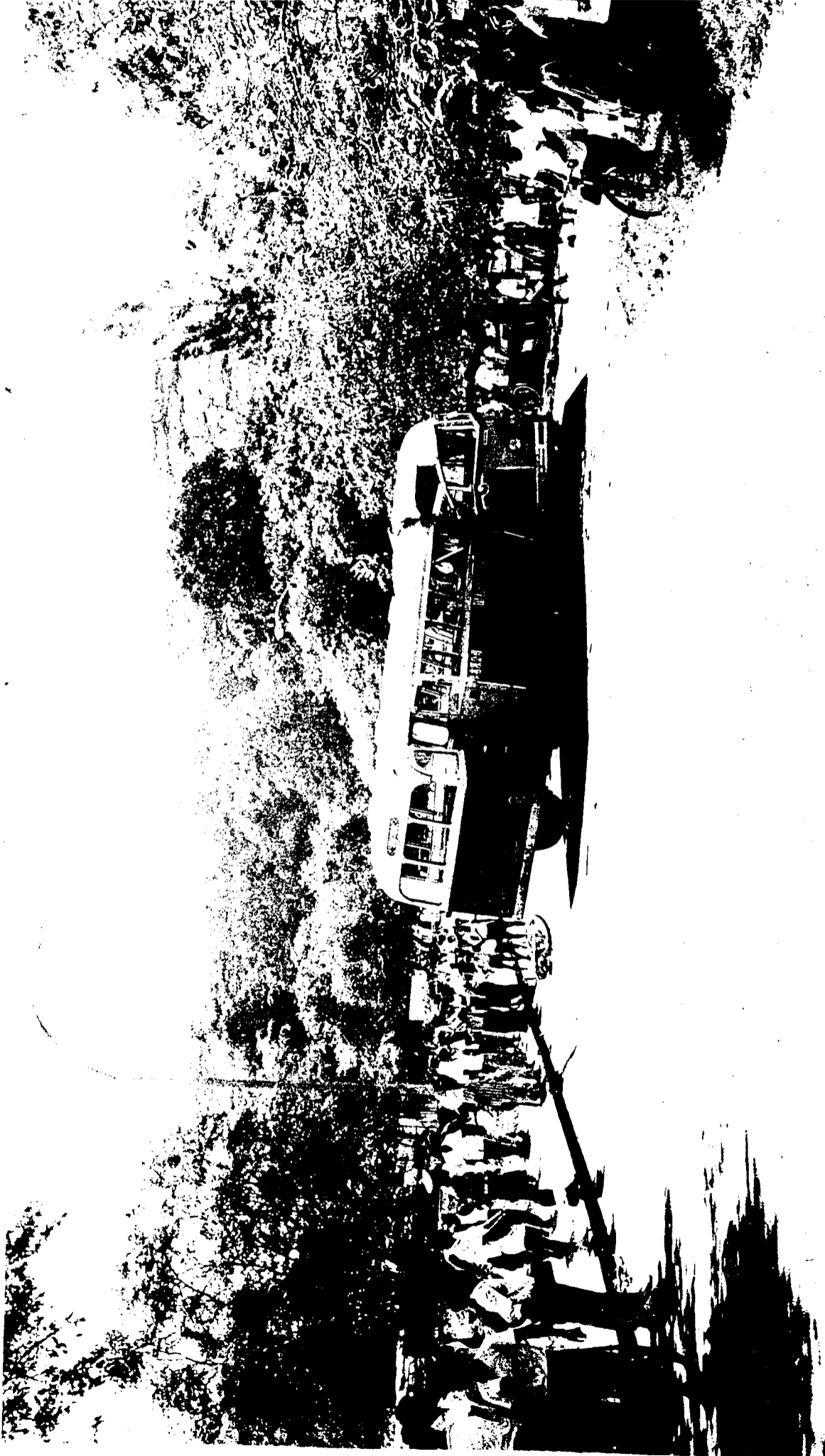


EXHIBIT P1(E)

3rd Defendant's Exhibits

Close-up photograph of the two buses involved in the accident (undated)

Exhibit P1(E)
Close-up photograph of the two buses involved in the accident (undated)

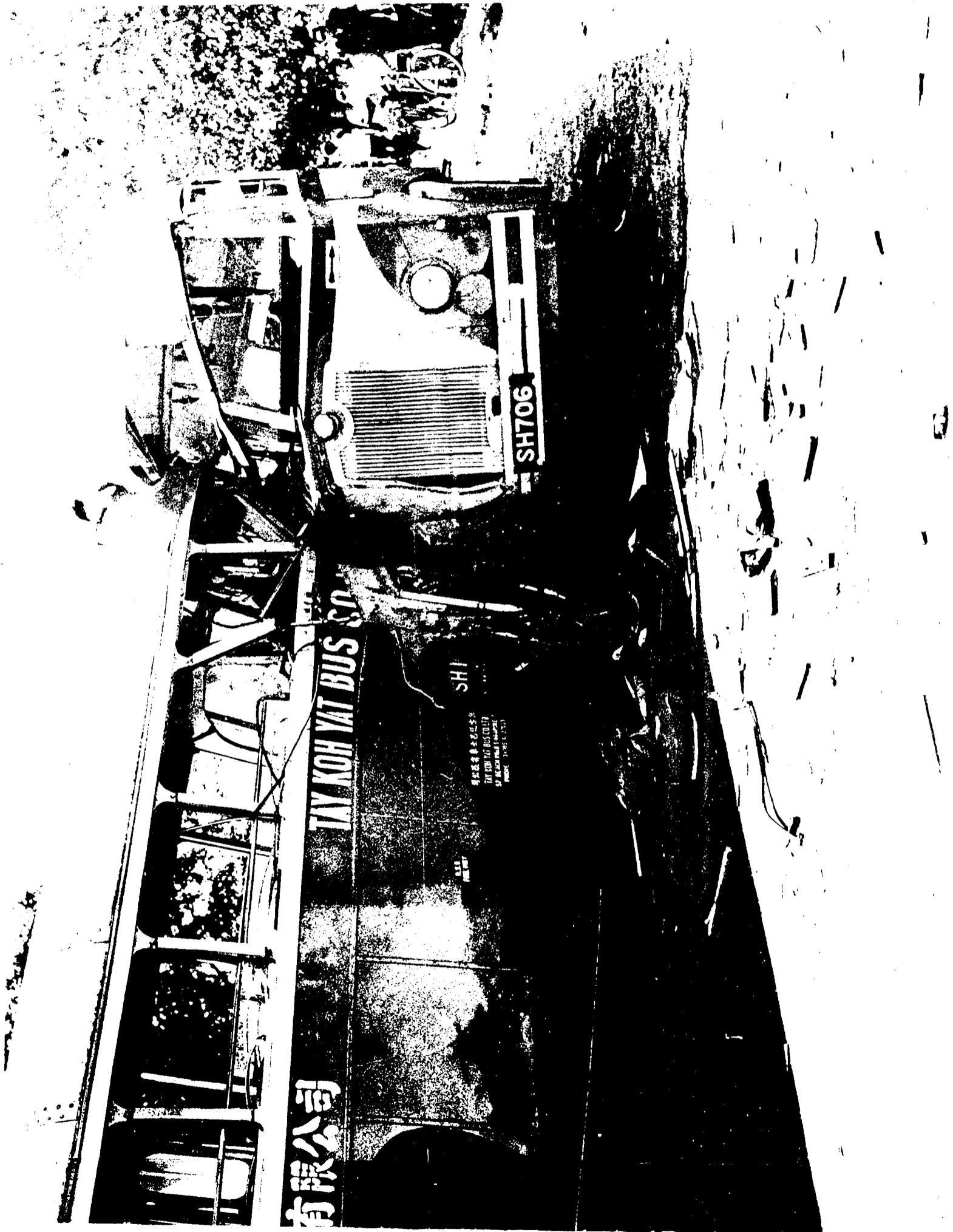


EXHIBIT P1(F)

Side view photograph of the two buses
involved in the accident (undated)

3rd Defendant's
Exhibits

Exhibit P1(F)
Side view photo-
graph of the
two buses
involved in the
accident
(undated)

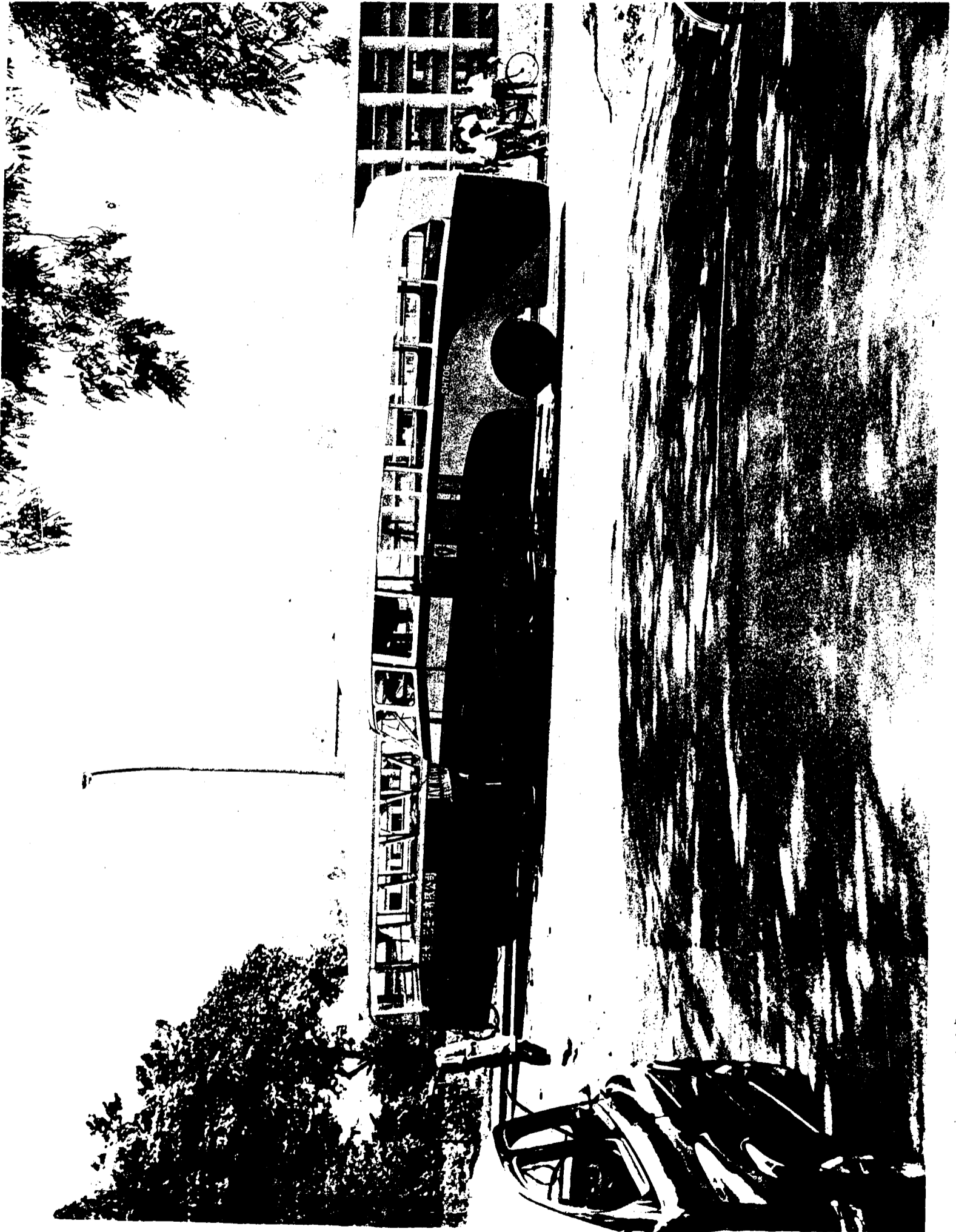


EXHIBIT P1(G)

Close-up photograph of damage to front parts
of both buses involved in the accident
(undated)

3rd Defendant's
Exhibits

Exhibit P1(G)
Close-up photo-
graph of damage
to front parts
of both buses
involved in the
accident
(undated)

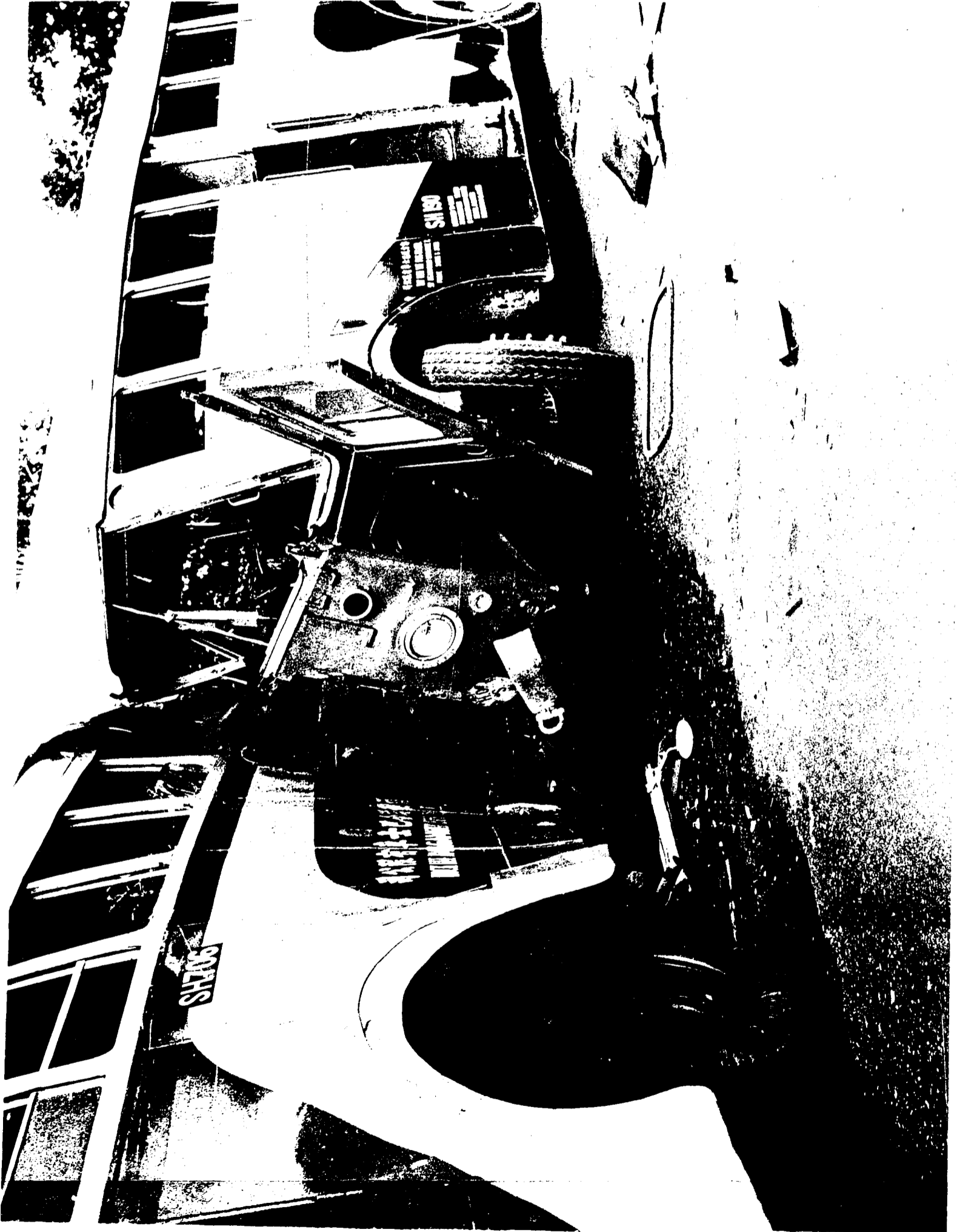


EXHIBIT P1(H)

Photograph of motor-cycle involved
in the accident taken from the rear
(undated)

3rd Defendant's
Exhibits

Exhibit P1(H)

Photograph of
motor-cycle
involved in the
accident taken
from the rear
(undated)

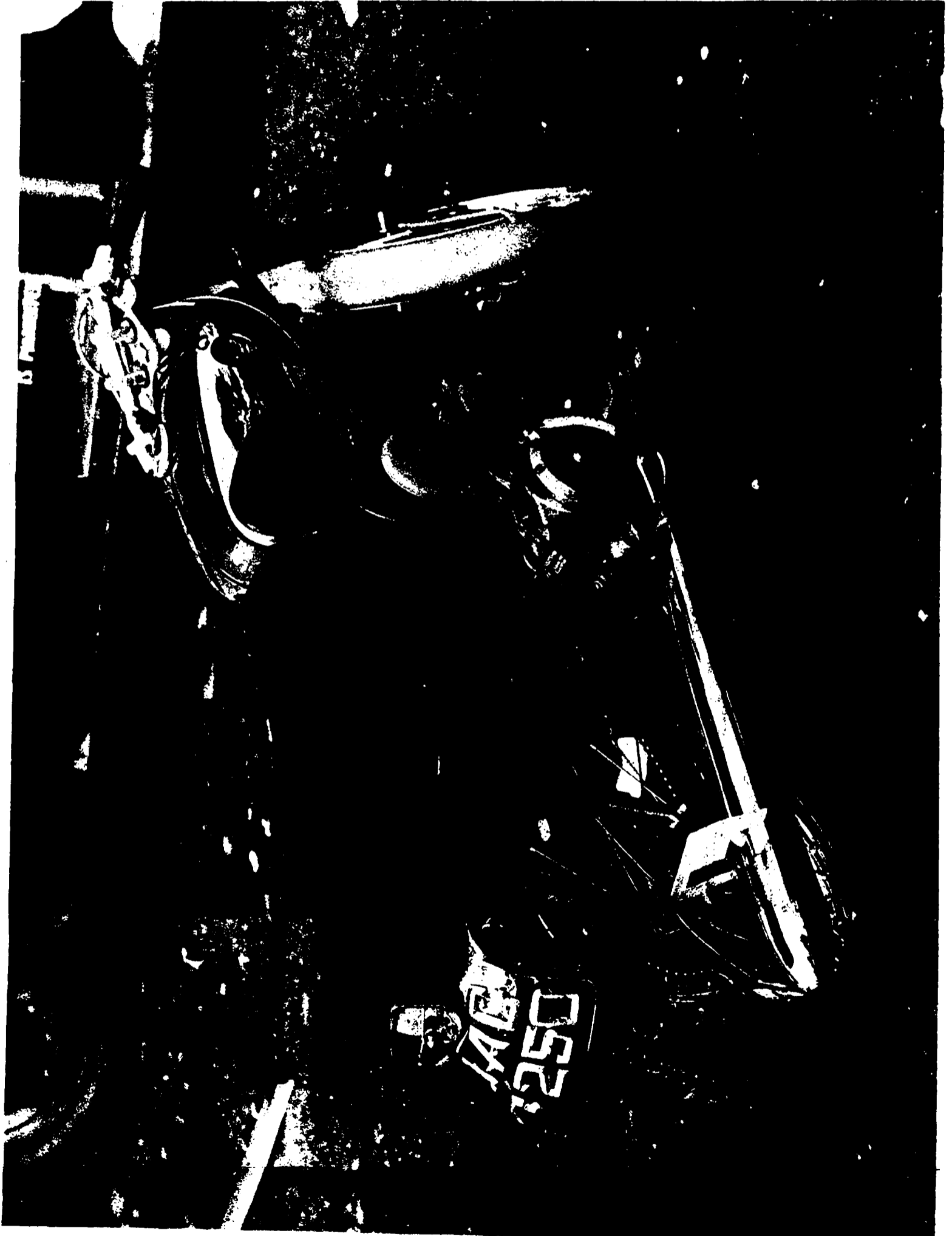


EXHIBIT P1(I)

Side view photograph of the motor-cycle
involved in the accident (undated)

3rd Defendant's
Exhibits

Exhibit P1(I)

Side view photo-
graph of the
motor-cycle
involved in the
accident
(undated)

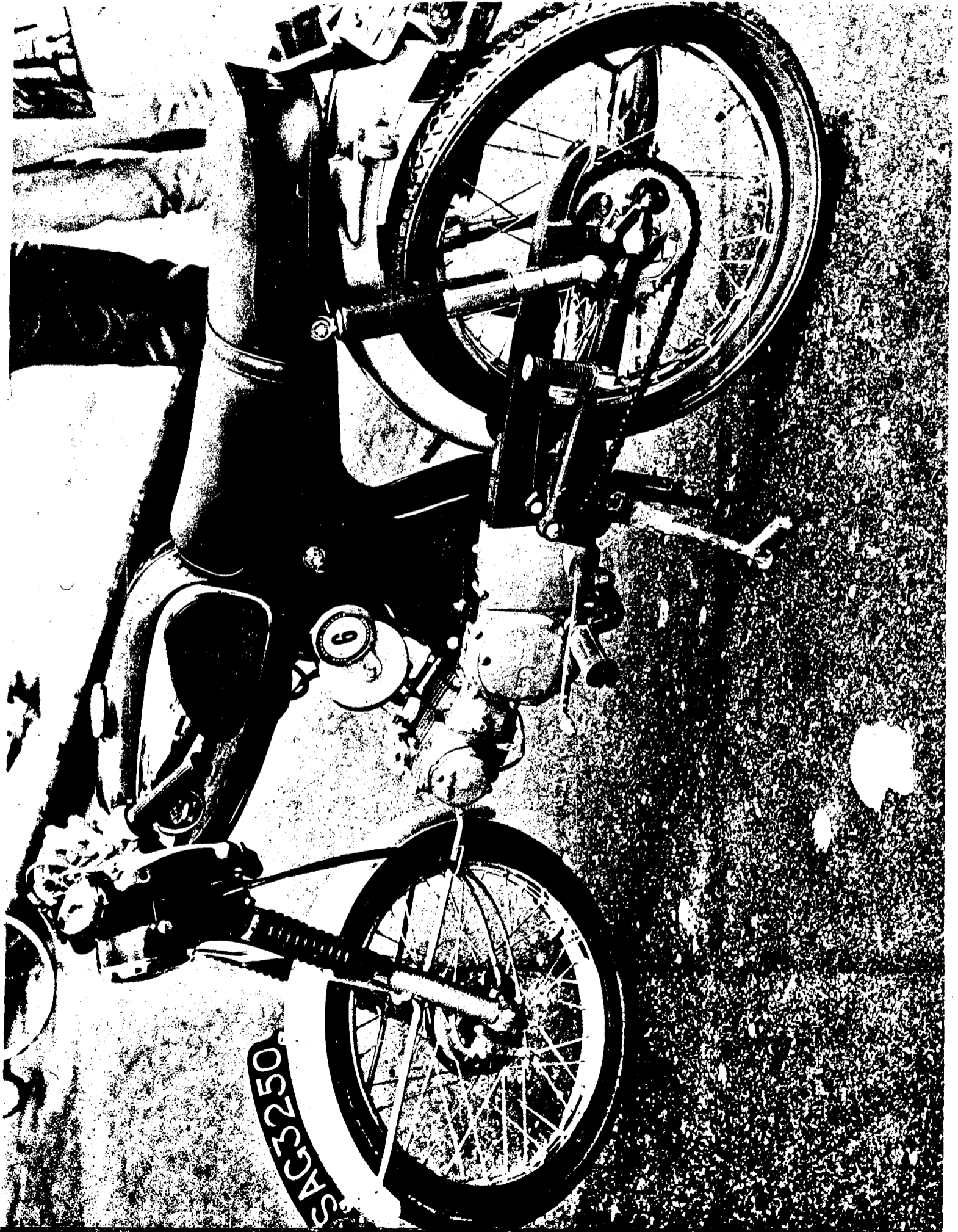


EXHIBIT P1(J)

Photograph of the damaged bus belonging
Hock Lee Amalgamated Bus Co. Ltd. 1st
Defendants (undated)

3rd Defendant's
Exhibits

Exhibit P1(J)
Photograph of
the damaged bus
belonging to
Hock Lee Amal-
gamated Bus Co.
Ltd. 1st
Defendants
(undated)

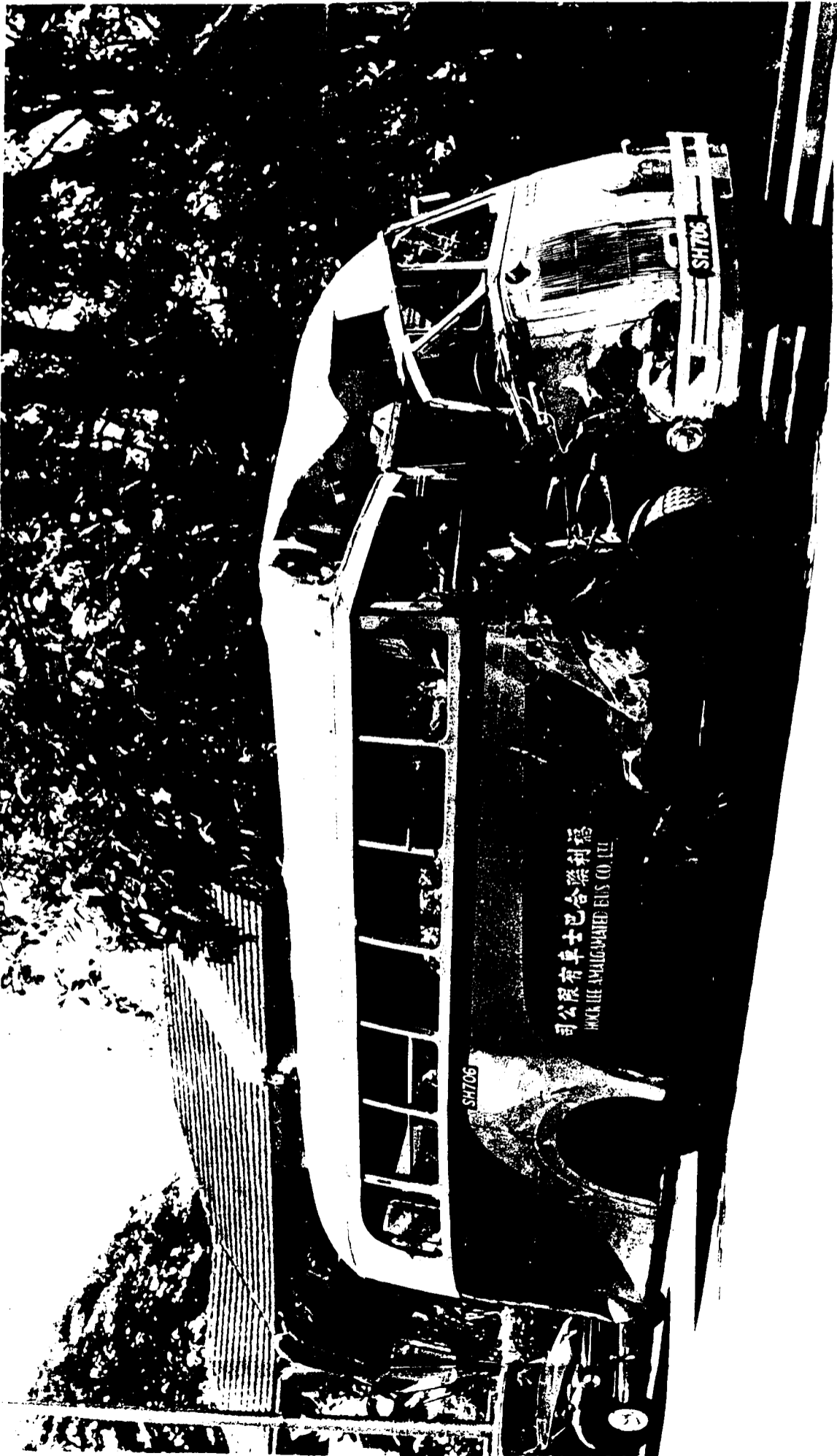
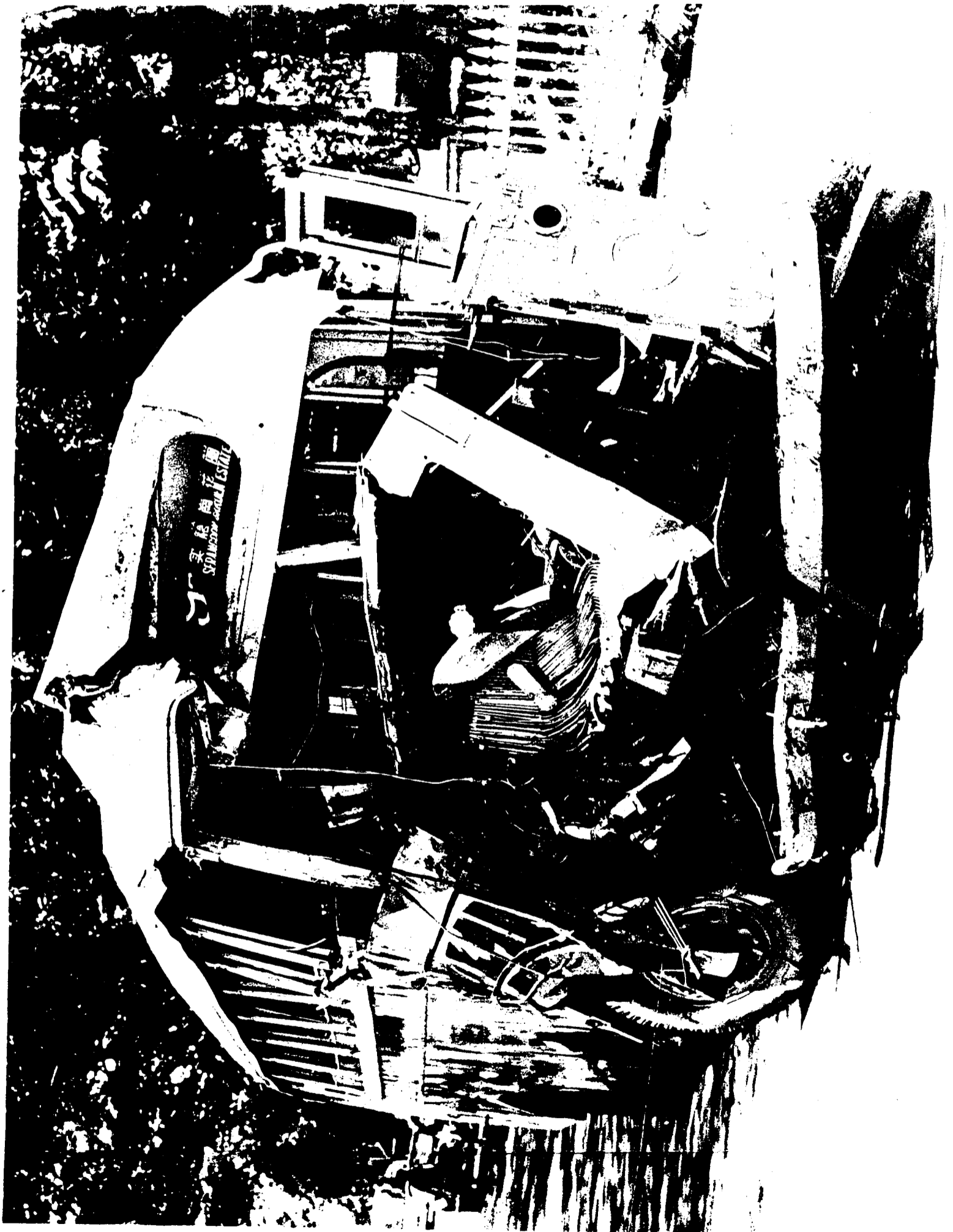


EXHIBIT P1(K)

Frontal photograph of the damaged bus
belonging to Tay Koh Yat Bus Co. Ltd.
2nd Defendants (undated)

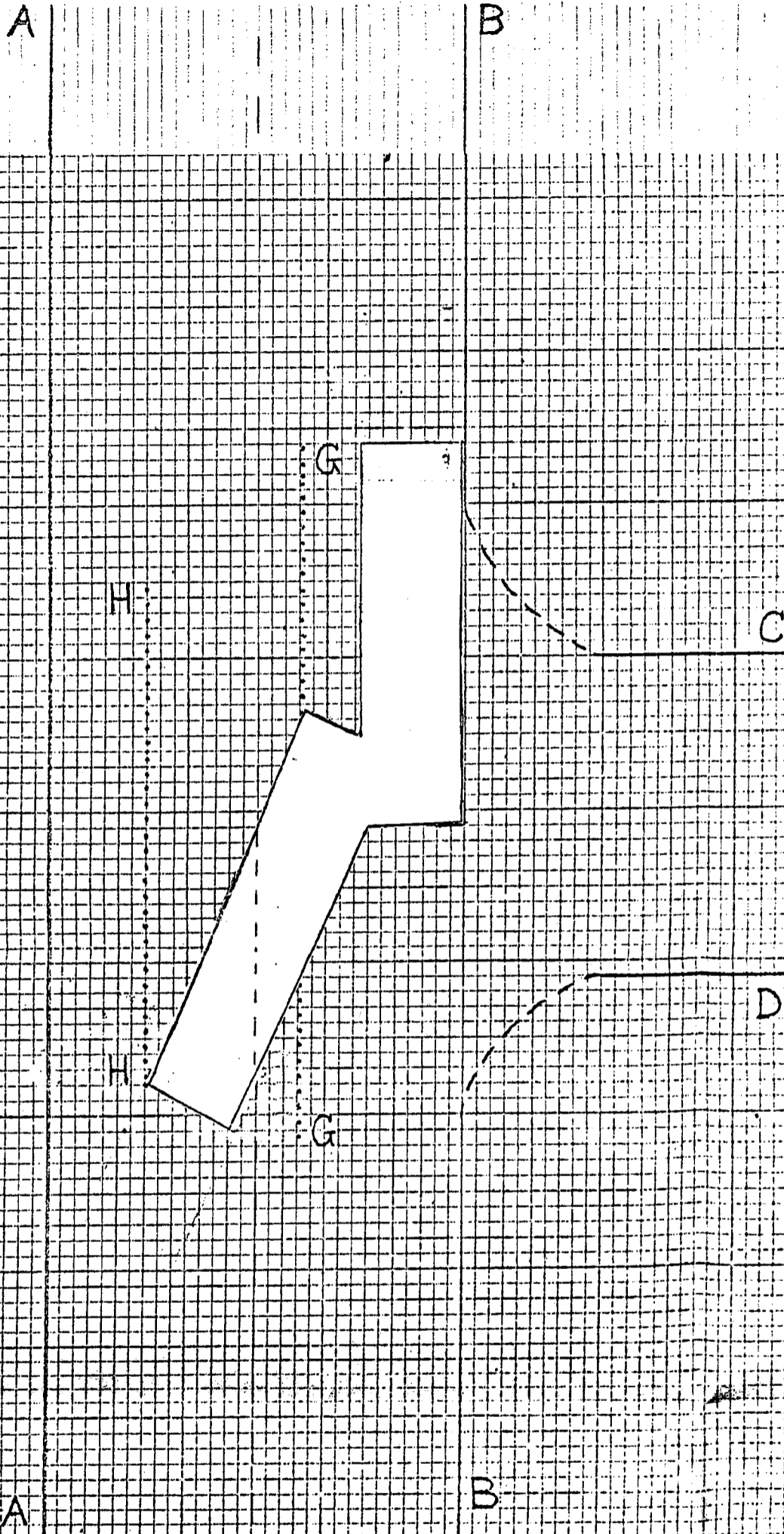
3rd Defendant's
Exhibits

Exhibit P1(K)
Frontal photo-
graph of the
damaged bus
belonging to
Tay Koh Yat Bus
Co. Ltd. 2nd
Defendants
(undated)



Plan showing position of the two buses submitted by Third Defendant's Counsel (undated)

Exhibit
Plan showing position of the two buses submitted by Third Defendant's Counsel (undated)



IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

No. 25 of 1970

O N A P P E A L
FROM THE FEDERAL COURT OF MALAYSIA
HOLDEN AT SINGAPORE
(APPELLATE JURISDICTION)

B E T W E E N :

TAY KOH YAT BUS COMPANY LIMITED	<u>Appellant</u> (Respondent)
- and -	
CHUA CHONG CHER	<u>Respondents</u> (Appellant)
and	
TEO LAN KEOW (m.w.)	(1st Respondent)
and	
HOCK LEE AMALGAMATED BUS COMPANY LIMITED	(2nd Respondent)

RECORD OF PROCEEDINGS

LINKLATERS & PAINES,
Barrington House,
59-67 Gresham Street,
London, E.C.2.

Solicitors for the
Appellant.

LIPTON & JEFFERIES,
Princes House,
39 Jermyn Street,
London, S.W.1.

Solicitors for the
Respondent.