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Gina and Harry, who were dating, had recently started to argue a lot. During an argument, Harry became so angry he punched Gina in the back. Unknown to Harry, Gina had a weak kidney. Gina was in pain for a few days before she went to the doctor. By the time she went for medical advice she was diagnosed with a permanently damaged kidney.

Explain the meaning of 'causation' using case authorities and consider Harry's causing Gina's injury. (10 marks)

Actus reus conduct must either be voluntary (**Hill v Baxter**) or be one of the omissions under common law duty. When Harry punched Gina in the back this amounted to a voluntary act and the jury when assessing the injuries will take into account that he hit a female.

For causation both factual and legal causation is required. Factual causation is established by applying the '**but for**' test. This is, 'had not been for defendant's unlawful voluntary act, the consequences would not have occurred' (**Pagett**). If the result would have occurred in any event, the defendant is not liable (**White**). Legal causation is when the D behaviour makes a 'substantive and operative cause' of the outcome. D behaviour does not have to be the sole or main cause of the outcome but must be more than a minimal cause. This is known as the de minimus rule (**Smith**). Defendant can argue that the chain of causation maybe be broken by an intervening act, such as an act of a third party (**Pagett**), act of the victim (**Roberts, Williams**), medical intervention (**Cheshire, Jordan**), the thin skull rule (eggshell skull rule). This is where you take the victim as you find them as demonstrated in the case of **Blaue** where pre-existing belief meant V refused blood transfusion and thus died of stabbing, thus held criminally liable. Furthermore, in **Hayward**, despite victim having a pre-existing medical condition, the defendant actions remain the operating cause of death regardless the condition be known or not.

Therefore, under causation if it was not for Harry's voluntary act of punching Gina, she would not have suffered the consequence of permanently damaging her kidney (**Pagett & White**). His conduct was operative and substantial cause (**Smith**). However, Harry may argue that Gina's had a weak kidney and her delaying to seek medical health are intervening acts that break the chain of causation. Under the 'thin skull rule' Harry must take his victim, Gina as he finds her with a weak kidney and does not break the chain of causation (**Blaue**). Similarly, to the case of **Hayward**, Harry is unaware of Gina's weak kidney, and again this does not break the chain as Harry's actions of punching in the back remains substantial and operating cause of injury even whether that condition be known or not. Thus, establishing the factual and legal causation.

(A01)
Explain factual causation with relevant case

Explain legal causation with case

Explain briefly the different intervening acts with relevant cases

(A02)
Apply causation with relevant case to scenario

Apply relevant intervening act of medical intervention with relevant cases