



Inclusion of Gig and Platform Workers in India: Aligning Labour Laws and Employer Liabilities

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I. Introduction

India's labour market is undergoing a profound transformation driven by the platformisation of work through digital intermediaries be it ride-hailing services, food delivery platforms, logistics aggregators, home-service marketplaces, and freelance portals now constitute a substantial portion of urban employment. While these platforms promise flexibility, entrepreneurship and rapid income generation, they simultaneously create a workforce that is structurally vulnerable, algorithmically controlled, and largely excluded from traditional labour protections under the legal framework.

The rapid expansion of India's platform economy has fundamentally altered the nature of labour and employment relationships. Gig and platform workers, though economically indispensable, have remained outside the protective framework of labour law due to their ambiguous legal classification however, the continuously evolving and growing economy of India needed reforms for such ambiguous status of workers. The enactment of the Code on Social Security, 2020 marks the first formal statutory recognition of gig and platform workers in India's labour law regime.

Historically, Indian labour law extended statutory protection only to those falling within the classical definitions of "workman" and "employee". Gig and platform workers, classified as independent contractors through unilateral digital contracts, remained ineligible for provident fund, insurance, gratuity, maternity benefit and compensation protection. The **Code on Social Security, 2020** ("hereinafter referred as **the Code**"), enacted as part of the four Labour Codes reform, represents a watershed moment by statutorily recognising gig and platform workers as beneficiaries of social security.¹

This article analyses the legal framework governing the inclusion of gig and platform workers under the Social Security Code, the statutory compliances imposed upon aggregators, the nature of welfare entitlements, the interaction with the remaining labour codes, and the evolving judicial approach to platform labour.

II. Statutory Recognition of Gig and Platform Workers

Definitions under Section 2

For the first time in Indian labour legislation, gig and platform workers are explicitly defined. A **"gig worker"** is defined as a person who performs work or participates in a work arrangement and earns from such activities outside the traditional employer–employee relationship. **"Platform work"** is defined as work arranged through an online platform for providing specific services for payment outside the conventional employment framework. A **"platform worker"** is any person engaged in platform work.

The Code also defines an **"aggregator"** as a digital intermediary or marketplace connecting service providers with consumers. Importantly, the statutory definition of **"social security"** expressly includes gig workers and platform workers alongside employees and unorganised workers.

¹ Code on Social Security, 2020, Preamble.



By introducing these definitions, Parliament has created a **third statutory category of labour**, distinct from both employees and independent contractors.

III. Institutional Framework for Social Security Governance

National and State Social Security Boards

Section 6 of the Code mandates the establishment of a National Social Security Board and corresponding State Unorganised Workers' Social Security Boards. The functions of the National Board include recommending welfare schemes for unorganised workers, gig workers and platform workers, monitoring scheme implementation, reviewing registration and record-keeping mechanisms, and supervising expenditure from welfare funds.

This institutional design creates a consultative and decentralised governance framework combining state oversight with stakeholder participation.

IV. Registration as the Gateway to Statutory Protection

Mandatory Registration under Section 113

Section 113 provides that every unorganised worker, gig worker and platform worker shall be registered through self-declaration in a prescribed manner supported by Aadhaar-based identification. Upon registration, the worker is assigned a unique identity number, which serves as the primary gateway for accessing social security benefits. Registration thus operates as the juridical foundation of welfare inclusion.

V. Statutory Welfare Schemes for Gig and Platform Workers

Schemes under Section 114

The core of the statutory inclusion lies in Section 114, which mandates the Central Government to frame specific welfare schemes for gig and platform workers. These schemes must provide for:

- Life and disability cover,
- Accident insurance,
- Health and maternity benefits,
- Old-age protection through pension,
- Crèche facilities, and
- Any other benefits as may be notified.

The provision further enables the Government to prescribe implementing authorities, funding mechanisms and administrative structures. This transforms gig-worker welfare from policy discretion into a statutory entitlement framework.

VI. Contribution of Social Security Fund and Aggregator

A. Constitution of Social Security Fund under Section 141

Section 141 empowers the Central Government to establish a **Social Security Fund** for unorganised workers, gig workers and platform workers. The Fund may comprise Government grants, aggregator contributions, CSR funds and penalties collected under the Code.

B. Statutory Fiscal Liability of Aggregators

Read with Section 114, aggregators are obligated to contribute between 1% and 2% of their annual turnover, subject to a cap of 5% of total payments made to gig and platform workers.¹² This marks a radical normative shift by imposing direct fiscal liability upon digital platforms despite the absence of a formal employment relationship.



VII. Statutory Compliances Imposed on Employers and Aggregators

A. Registration of Establishments

Under Section 3, every establishment to which the Code applies must obtain electronic registration. Digital platform companies and aggregators fall within the scope of this obligation.

B. Maintenance of Records

Section 111 mandates the maintenance of records of unorganised, gig and platform workers, while Section 123 requires the upkeep of electronic registers and returns.

C. Inspection, Assessment and Recovery

Chapter XI empowers Inspector-cum-Facilitators to inspect establishments, assess unpaid contributions and recover dues as arrears of land revenue. Interest is payable on delayed payments under Section 127 and damages may be imposed under Section 128.

D. Penal Consequences

Non-compliance invites penal action under Chapter XII. Section 133 prescribes penalties for failure to pay contributions, while Section 135 fixes criminal liability on companies and their officers.¹⁷ Offences may be compounded under Section 138.

VIII. Interaction with the Other Labour Codes

While gig and platform workers are explicitly included under the Social Security Code, the Code on Wages, 2019, the Industrial Relations Code, 2020, and the Occupational Safety, Health and Working Conditions Code, 2020 continue to apply primarily to traditional employees and workers. Gig and platform workers therefore remain excluded from statutory minimum wages, trade-union recognition, retrenchment protection and workplace safety guarantees unless courts reclassify them as employees. This results in welfare inclusion without full labour rights parity.

IX. Misclassification and Emerging Employer Liability

If a platform arrangement² is judicially reclassified as an employer–employee relationship on the basis of control, economic dependency and supervision, aggregators may incur retrospective liability for provident fund, ESI contributions, gratuity, minimum wages, maternity benefits and retrenchment compensation. The Social Security Code therefore creates a dual compliance framework, one as an aggregator under welfare law and another as a potential employer under classical labour law.

X. Constitutional and Jurisprudential Basis of Inclusion

The inclusion of gig workers within the statutory definition of social security strengthens the realisation of Article 21 (right to livelihood and dignity) and Article 14 (substantive equality). However, the continuing denial of wage security, collective bargaining and job protection perpetuates a regime of partial constitutional citizenship for digital workers. In *Maneka Gandhi v. Union of India*³, the Supreme Court held that the right to life includes the right to live with dignity. This interpretation was further developed in *Olga Tellis v. Bombay Municipal Corporation*⁴, which recognised the right to livelihood as an integral part of Article 21.

In *Consumer Education & Research Centre v. Union of India*⁵, the Court expressly held that social security and health protection of workers fall within the scope of the right to life. These decisions

² Platform contracts are typically standard-form agreements with limited scope for negotiation. The Supreme Court in *Central Inland Water Transport Corporation and Ors. v. Brojo Nath Ganguly and Ors.*, reported as AIR1986SC1571 recognised that contracts imposed under conditions of gross inequality of bargaining power may be rendered void for being unconscionable. This doctrine assumes particular relevance in the context of platform labour.

³ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248

⁴ *Olga Tellis v. Bombay Municipal Corporation*, (1985) 3 SCC 545

⁵ *Consumer Education & Research Centre v. Union of India*, (1995) 3 SCC 42



collectively establish that labour protection is not merely a statutory entitlement but a constitutional obligation.

The Directive Principles of State Policy reinforce this obligation. Articles 38, 39, 41, and 43 mandate the State to promote social justice, ensure adequate means of livelihood, provide public assistance in cases of unemployment and disablement, and secure living wages and humane conditions of work. Gig and platform workers, despite being central to the digital economy, remain among the most economically vulnerable strata of the urban workforce, thereby making constitutional inclusion imperative.

XI. Conclusion

The Code on Social Security, 2020 represents a historic reform in Indian labour jurisprudence by formally recognising gig and platform workers and imposing statutory contribution obligations on aggregators. However, the present regime remains fundamentally welfare-centric rather than rights-centric. The judiciary, through platform-worker PILs and comparative reliance on global precedents such as *Uber BV v. Aslam & Ors.*, has begun to constitutionalise gig-worker protections.

True alignment between digital capitalism and labour justice will require extension of wage protection, industrial relations safeguards and algorithmic accountability alongside social security. Until such convergence is achieved, the Social Security Code remains a foundational but incomplete instrument in securing equitable protection for India's rapidly expanding digital workforce.
