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LABOUR RIGHTS OF GIG WORKERS IN INDIA: A LEGAL ANALYSIS

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ABSTRACT

This article examines the legal status and labour rights of gig workers in India in light of the rapid growth of platform-based work in transport, food delivery, logistics and home services. It analyses the concept of gig work, the distinction between employee and independent contractor, the relevance of judicial tests on employment status and the framework created by the Code on Social Security, 2020. The study argues that statutory reputation of gig and platform workers is a vital step, but reputation alone does not secure fair wages, job security, social protection or effective remedies. It concludes that Indian labour law must move beyond formal labels and adopt a broader approach based on economic dependence, digital control, dignity, fairness, worker welfare and social justice in contemporary labour relations.

Keywords: Gig Work, Platform Work, Gig Workers, Labour Rights, Social Security, Worker Classification.

1. INTRODUCTION

The present study examines whether Indian labour law provides adequate protection to gig workers, with particular emphasis on worker classification, labour rights, social security and fair working conditions. Its scope is confined to the Indian legal framework and relies on statutes, judicial decisions, policy reports and scholarly writing on gig and platform labour. The central issue is that a growing category of workers now performs essential services for the digital economy while remaining outside the core protections traditionally attached to

recognised employment.¹ This makes the subject not only legally significant but also socially urgent in contemporary India.

This study follows a doctrinal and analytical method. It evaluates statutory materials, judicial precedents, policy reports and secondary academic literature in order to understand the legal status of gig workers and the need for reform. Such a method is appropriate because the problem is not merely descriptive; it also requires an assessment of whether existing labour law categories are still capable of addressing platform-based work. The discussion therefore moves from legal text to legal effect and from formal classification to practical consequences for workers.

Existing scholarship shows that gig work has expanded rapidly in India, yet labour protections remain weak because platform workers are usually treated as independent contractors rather than employees.² The literature repeatedly identifies problems relating to wages, social security, job security, bargaining power and dignity at work. It also highlights a tension between the promise of flexibility and the reality of economic dependence. For this reason, platform labour has become one of the most important areas of debate in contemporary labour law and social welfare policy.

2. CONCEPT OF GIG WORK

2.1 Meaning of Gig Work

Gig work refers to task-based or assignment-based work performed outside a conventional long-term employment relationship. Instead of being hired on a stable monthly basis, the worker is commonly paid for each ride, order, delivery, service, hour or project completed. In the contemporary economy, such work is often organised through digital applications that connect workers with customers in real time.³ Gig work therefore appears flexible in form, but in practice it may involve unstable income, worker-borne costs and heavy dependence on platform rules.

2.2 Gig Work and Platform Work

Platform work is a specific form of gig work mediated through digital applications that allocate tasks, regulate payments, monitor performance and structure customer interaction. The

¹NITI Aayog, India's Booming Gig and Platform Economy (2022).

² International Labour Organization, World Employment and Social Outlook 2021: The Role of Digital Labour Platforms in Transforming the World of Work (2021); NITI Aayog, India's Booming Gig and Platform Economy (2022).

³ NITI Aayog, India's Booming Gig and Platform Economy (2022).

app becomes the central medium through which work is obtained, assessed and disciplined. This means that technology does not eliminate control; rather, it often reorganises control in a less visible form. The distinction between gig work generally and platform work specifically is important because many of the most pressing legal issues arise where digital intermediation allows companies to exercise influence while denying the role of employer.

2.3 Judicial Background

Indian courts have long examined the distinction between an employee and an independent contractor while deciding labour rights. In *Dharangadhra Chemical Works Ltd v State of Saurashtra*, the Supreme Court stressed the importance of control and supervision in determining employment status.⁴ Later, in *Silver Jubilee Tailoring House v Chief Inspector of Shops and Establishments* and *Ram Singh v Union Territory, Chandigarh*, the Court adopted a broader approach and held that the real nature of the relationship must be judged from several factors and not merely from contractual labels.⁵ In the context of gig work, this issue has gained present relevance through *Indian Federation of App-Based Transport Workers (IFAT) v UOI*, where the question of social security and legal protection of app-based workers has been raised before the Supreme Court.⁶

2.4 Growth of Gig Work in India

Gig work has expanded in India because of increased smartphone access, app-based service models, urban demand, underemployment and the search for immediate income opportunities. It now occupies a major place in sectors such as transportation, food delivery, home services, logistics and e-commerce support. The growth of this sector became especially visible during and after the pandemic, when platform-based services became integral to daily life. At the same time, this expansion exposed deep questions about wages, working conditions, social protection and the regulatory responsibilities of platforms.

2.5 Nature and Characteristics of Gig Work

Gig work differs from regular employment in several important respects. It is typically task-based, marked by uncertain income, managed through technology and dependent on ratings, incentives and algorithmic systems. Workers often bear the financial cost of fuel,

⁴ *Dharangadhra Chemical Works Ltd v State of Saurashtra* AIR 1957 SC 264.

⁵ *Silver Jubilee Tailoring House v Chief Inspector of Shops and Establishments* (1974) 3 SCC 498; *Ram Singh v Union Territory, Chandigarh* (2004) 1 SCC 126.

⁶ *Indian Federation of App-Based Transport Workers (IFAT) v Union of India* WP (C) No 1068/2021 (SC).

maintenance, internet access or equipment while remaining subject to rules they do not negotiate. Thus, although gig work is publicly presented as flexible and independent, it often combines insecurity, dependence and limited bargaining power in a single labour arrangement.

2.6 Gig Workers and Labour Rights

The growth of platform labour has transformed gig work from a market phenomenon into a labour rights issue. Gig workers perform routine and economically essential services, yet they frequently lack minimum wage protection, secure working conditions, social security, grievance mechanisms and procedural fairness.⁷ This contradiction raises a central legal question: should labour rights depend solely on formal status, or should they also reflect the actual dependence and vulnerability involved in the work relationship? The answer to that question lies at the heart of the current debate on labour justice in India. The issue is therefore not whether gig work should exist, but whether the law can ensure that flexibility does not become a reason for withholding basic labour standards from vulnerable workers.

3. LEGAL STATUS OF GIG WORKERS UNDER INDIAN LABOUR LAWS

3.1 Worker Classification Issues

The distinction between employee and independent contractor remains central because most labour rights continue to depend on recognised employment status. In the gig economy, however, formal contracts often describe workers as partners, service providers or independent contractors even where they depend heavily on the platform for access to work and income. This creates the problem of misclassification, where legal language obscures actual dependence. If a worker is wrongly placed outside employment status, protections relating to wages, social security, compensation, dispute resolution and termination may become unavailable.

3.2 Tests for Determining Employment Relationship

Courts have developed several tests to determine whether a worker is an employee or an independent contractor. These include the control test, the integration test and the economic reality test, as well as broader multiple-factor approaches that look at the overall substance of

⁷ International Labour Organization, World Employment and Social Outlook 2021: The Role of Digital Labour Platforms in Transforming the World of Work (2021).

the relationship.⁸ In app-based Gig work, these tests remain relevant because algorithmic systems may regulate order allocation, incentives, ratings, performance evaluation and account deactivation. What matters is not merely whether the platform uses contractual language of independence, but whether the worker is in reality integrated into the business and subject to significant managerial power. A multiple-factor test is especially useful in app-based gig work because no single indicator can fully capture the combined effect of digital supervision, dependency, economic risk and integration into the enterprise.

3.3 Gig Work and the Limits of Traditional Labour Law

Traditional labour law developed around fixed workplaces, visible employers, direct supervision and stable wage relationships. Gig work disrupts each of these assumptions. The platform may claim to be only an intermediary; the workplace may be dispersed across roads, homes, restaurants or digital space; and payment may fluctuate on a task-by-task basis. As a result, many gig workers fall into legal uncertainty because the structure of labour law was designed for a different economic model. The challenge is therefore not only the absence of law, but also the mismatch between older legal categories and new forms of digitally mediated work.

3.4 Applicability of Indian Labour Laws to Gig Workers

The applicability of Indian labour laws to gig workers remains uncertain because most protective statutes are closely tied to employee status. This affects rights concerning minimum wages, social benefits, termination, safety and access to labour forums. Even where a worker performs labour regularly and is heavily influenced by platform decisions, the absence of formal recognition may make remedies difficult to obtain. The issue has become especially important because the NITI Aayog report estimated that around 77 lakh workers were engaged in the gig economy in 2020-21 and projected substantial growth in the coming years.⁹ These figures make it clear that gig work can no longer be treated as a marginal legal issue.

3.5 Social Security Recognition and Its Limits

The recognition of gig workers within a welfare framework is an important legal development because it acknowledges them as a distinct class of workers requiring social

⁸ Silver Jubilee Tailoring House v Chief Inspector of Shops and Establishments (1974) 3 SCC 498; Ram Singh v Union Territory, Chandigarh (2004) 1 SCC 126.

⁹ NITI Aayog, India's Booming Gig and Platform Economy (2022).

protection. Such recognition reflects a move from legal invisibility to partial inclusion. Yet it does not by itself confer the full range of labour rights attached to regular employment, such as wage protection, safeguards against unfair termination or collective bargaining rights. A worker may therefore be visible for welfare purposes while still remaining outside the deeper structure of labour justice. This partial model is valuable, but it remains incomplete.

3.6 Digital Control, Economic Dependence and Need for Legal Reform

Gig workers are often said to be independent because they can choose when to log in, but that formal flexibility may hide deep economic dependence. Platforms can influence visibility, task allocation, incentives, fare structures, ratings and account continuity. Workers usually have little power to negotiate these conditions and may accept standard-form terms on a take-it-or-leave-it basis.¹⁰ These realities call for legal reform based not on labels alone but on substantive indicators such as digital control, unequal bargaining power and dependence on the platform for livelihood. Only such an approach can bring labour law closer to the realities of modern work.

4. ANALYSIS OF THE CODE ON SOCIAL SECURITY, 2020

4.1 Statutory Recognition of Gig Workers and Platform Workers

The Code on Social Security, 2020 is significant because it formally recognises gig workers, platform workers and aggregators within the legal framework. This is a major legislative development because previous labour legislation largely revolved around conventional categories such as employee and workman. By naming gig and platform workers expressly, the law acknowledges that new forms of labour have emerged outside the classic employer-employee model. At the same time, the Code remains cautious because recognition does not automatically amount to full employment status.

4.2 Social Security Framework

Chapter IX contains the principal social security framework for unorganised workers, gig workers and platform workers. Its structure shows a legislative effort to create a broader welfare system for categories of workers not adequately covered by traditional formal employment. This chapter is important because it recognises that social protection cannot

¹⁰ International Labour Organization, World Employment and Social Outlook 2021 (2021); NITI Aayog, India's Booming Gig and Platform Economy (2022).

remain limited to the classic model of organised labour. It reflects a shift toward a more inclusive understanding of labour welfare, even though much depends on later implementation and scheme design.

4.3 Registration of Gig Workers

Registration under section 113 is crucial because a welfare system cannot function without identifying workers and maintaining records. For a workforce that is numerous, mobile and digitally dispersed, registration is the administrative gateway to inclusion in social security schemes. It also has legal importance because it recognises that gig workers are persons capable of being integrated into a welfare framework rather than remaining invisible service providers. At the same time, registration alone cannot guarantee effective protection if procedures are inaccessible or implementation remains weak.

4.4 Social Security Schemes

Section 114 empowers the Government to frame social security schemes for gig and platform workers on matters such as life and disability insurance, accident insurance, health benefits and old-age protection. This provision is important because it creates the legal basis for targeted welfare measures suited to the vulnerability of gig work. However, the section is enabling rather than self-executing. It authorises the making of schemes, but it does not by itself place a ready-made package of enforceable benefits in the hands of every worker. The real value of the section therefore depends on concrete implementation.

4.5 Aggregator Contribution

Section 114(4), read with the Seventh Schedule, is one of the most structurally significant parts of the Code because it places contribution obligations on aggregators. This reflects an important policy principle: digital platforms should not profit from gig labour while escaping all responsibility for worker welfare. The contribution model introduces shared accountability between the State and the business entities that rely upon platform labour. It also weakens the argument that aggregators are merely passive technological intermediaries with no meaningful connection to the labour process that sustains their operations.

4.6 Strengths of the Code on Social Security, 2020

The Code is progressive in several respects. It gives legal visibility to gig workers, creates a statutory basis for future welfare schemes, recognises aggregators as relevant actors in worker

protection and establishes an institutional structure within which gig labour can be addressed.¹¹ These features move gig workers from near invisibility toward partial inclusion in a legal welfare regime. For that reason, the Code is more than symbolic. It provides a vocabulary, framework and legislative acknowledgement on which more comprehensive protection may later be built.

4.7 Limitations of the Code on Social Security, 2020

Despite its importance, the Code remains limited. Many of its protections depend on future schemes and executive implementation, while core matters such as wage protection, job security, grievance redress, collective rights and protection from arbitrary deactivation remain underdeveloped. The framework recognises vulnerability, but it does not yet convert that recognition into a comprehensive and enforceable labour rights regime. This is why the Code is best understood as a valuable beginning rather than a complete solution. Its legal significance is real, but so is the gap it leaves behind. The gap between statutory recognition and enforceable rights remains one of the main weaknesses of the present framework, particularly where workers need immediate remedies rather than future policy promises.

5. CHALLENGES AND ISSUES FACED BY GIG WORKERS

5.1 Lack of Job Security

One of the most serious issues in gig work is the absence of job security. Workers may be suspended, blocked or deactivated without adequate notice, explanation or hearing, even when the platform constitutes their primary source of livelihood. Such deactivation can function like termination in substance, even if the platform avoids using the language of employment. In the absence of proper safeguards, procedural fairness becomes weak and the worker is exposed to sudden income loss. This shows how the vocabulary of flexibility can conceal a structure of deep insecurity.

5.2 Wage Insecurity and Uncertain Earnings

Gig workers commonly face fluctuating and uncertain earnings. Payment is often tied to each task, while actual income may be reduced by waiting time, platform commissions, fuel costs, internet charges, maintenance and changing incentive structures.¹² As a result, workers

¹¹ Code on Social Security, 2020, ss 2(22), 2(35), 2(61), 113, 114, 114(4).

¹² NITI Aayog, India's Booming Gig and Platform Economy (2022).

may spend long hours online without receiving fair or predictable compensation. The absence of clear wage standards means that market demand and platform policy often determine income in ways that place workers in a financially vulnerable position. Flexibility therefore does not necessarily translate into economic freedom. Income insecurity is aggravated when workers cannot predict how rates, commissions or incentive formulas will change from one period to the next, making household budgeting and financial planning difficult.

5.3 Long Working Hours and Unsafe Conditions

Long working hours are common because workers often need to remain active for extended periods to earn enough or to qualify for incentives. Delivery personnel and drivers may face road hazards, traffic stress, fatigue, harsh weather and customer pressure. Home service providers may also encounter personal safety concerns in unfamiliar locations. Yet many of these risks are borne by workers themselves rather than by the platform. In the absence of a clear labour framework, issues of occupational safety, fatigue and humane working conditions remain inadequately addressed.

5.4 Absence of Social Security and Effective Remedies

The lack of effective social security leaves workers vulnerable to accident, illness, disability and sudden interruption of income. At the same time, uncertain legal status makes access to grievance redress and formal legal remedies more difficult. Even where welfare is promised in principle, the absence of clear implementation or accessible forums can make protection more theoretical than real. This creates a situation in which workers may be recognised in law yet remain weakly protected in practice. The problem is therefore both legal and institutional.

5.5 Algorithmic Control and Weak Bargaining Power

Gig workers may be managed through ratings, incentives, order allocation systems, acceptance rates and deactivation mechanisms that they do not control and may not fully understand. This creates a significant imbalance of power between platforms and workers. Algorithmic opacity also affects procedural fairness because workers may not know how decisions affecting their livelihood are made or how those decisions may be challenged. Weak bargaining power makes collective organisation difficult, especially where workers are dispersed and formally treated as independent. In this way, the platform may exercise strong managerial influence while continuing to deny the obligations traditionally associated with

management.

6. FINDINGS, SUGGESTIONS AND CONCLUSION

6.1 Findings of the Study

This study finds that gig workers are economically significant but legally vulnerable. Indian law has begun to recognise them, yet that recognition has not matured into a complete rights-based framework. The present system offers partial visibility and partial welfare while leaving major questions of status, entitlement and enforceability unresolved. Gig workers therefore remain in a zone of incomplete protection where their labour is essential to the economy but their rights remain uncertain. This is the central contradiction revealed by the study.

6.2 Suggestions for Reform

Meaningful reform should combine social security with fair earnings protection, procedural safeguards against arbitrary deactivation, transparency in algorithmic management, accessible grievance mechanisms and stronger accountability for platforms. The law must move beyond narrow contractual labels and pay closer attention to economic dependence, digital control and the reality of unequal bargaining power. It should also support forms of worker association appropriate to the platform economy, because collective voice remains important wherever labour vulnerability exists. Reform should therefore be both welfare-oriented and rights-oriented, rather than limited to symbolic recognition. Additional reforms should also clarify standards for notice, appeal and reinstatement where workers are deactivated, and should require platforms to disclose the main factors used in ratings, incentives and account restrictions.

6.3 Broader Implications of the Study

The implications of this study extend beyond gig workers alone. The platform economy raises a broader question about whether labour law can adapt to changing forms of work without sacrificing fairness, dignity, social protection and justice. If legal protection remains tied only to older employment models, an expanding section of the workforce will continue to remain at the margins of labour regulation despite being central to the contemporary economy. The study therefore illustrates the need not only for statutory reform but also for a wider rethinking of the foundations of labour law in the digital age.

6.4 Conclusion

The future of labour justice in India depends in part on whether the law is willing to respond to changing forms of work without sacrificing dignity, fairness and social protection. A modern labour regime must protect not only traditional workers but also those whose dependence is organised through platforms and algorithmic systems. Until such an inclusive framework is developed, gig workers will continue to remain essential to the economy but peripheral to labour justice. The challenge before Indian labour law is therefore to convert partial recognition into meaningful and enforceable protection.

