

LEGAL RECOGNITION THROUGH CONSTITUTIONAL INTERPRETATION OF GIG WORK

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The law is not an end in itself, but a means to an end – justice.” – Roscoe Pound⁹³¹

The nature of work in the digital economy has changed significantly with the rise of gig and platform-based employment. Unlike traditional forms of employment, gig work is largely based on short-term tasks and flexible arrangements, usually managed through digital platforms. Because these workers do not fall within the traditional employer–employee relationship, they have largely remained outside the protection of labour laws in India. This exclusion has created a vulnerable position for gig workers, particularly in relation to job security, income stability, and access to social security benefits.



⁹³¹ Roscoe Pound, *An Introduction to the Philosophy of Law* 137 (Yale Univ. Press 1922).

This paper examines gig and platform work within the Indian legal framework by placing it in a constitutional context. It argues that the continued exclusion of gig workers from substantive labour protection raises serious constitutional concerns under Articles 14, 19(1)(g), and 21 of the Constitution of India. The absence of legal safeguards results in unequal treatment when compared to similarly placed workers, restricts the freedom to carry on an occupation in a meaningful manner, and affects the right to livelihood and dignity.

The Code on Social Security, 2020 represents the first legislative attempt to formally recognise gig and platform workers as a separate category under Indian law. While this recognition marks an important step forward, it remains largely symbolic in nature. The Code does not create enforceable rights or impose clear obligations on digital platforms, leaving workers dependent on discretionary benefits. This paper analyses the concept of gig work, evaluates the framework provided under the Code, and highlights the gaps that limit its effectiveness. It concludes that without constitutional interpretation that strengthens labour protections, gig workers will continue to remain in a legally uncertain and precarious position.

I. Conceptualising Gig and Platform Work in India

Gig work marks a break from the traditional model of reliable, long-term employment underpinned by formal contracts and legal protections. At its essence, gig work is performing independent tasks or providing services for pay – often with little prospect of continued employment or guaranteed future employment. Platform work, a form of gig work, is facilitated by digital platforms which match workers with consumers while often also

managing task) and retaining the work relationship⁹³².

The Code on Social Security, 2020, provides a statutory definition of “gig worker” as a person who performs work in any manner other than in the traditional employer–employee relationship and also includes one who is performing or has performed temporary service, that is remunerated by online digital network wherein the organization can now lead such workers in any manner including through digital networks or platform – technology based application for intermediation to provide specific services⁹³³; while a “platform worker” under it means a gig workers who perform or avail services access to an organisation in exchange for payment where such organisation uses an online platform⁹³⁴. These definitions are also important because they are the first formal recognition of non-standard forms of labours in Indian labour law⁹³⁵. But in explicitly placing gig- and platform-workers outside of the employer–employee relationship, the Code at once digs this divide, deepening their exclusion from mainstream labour law’s protective umbrella⁹³⁶.

Gig work is notable for characteristic traits such as This economic dependence raises serious questions about the voluntariness of flexibility and the imbalance of bargaining power between platforms and workers. Importantly, the organisation of gig work is shaped not merely by contractual terms but by algorithmic governance. Platforms use opaque algorithms to determine work allocation, dynamic pricing, incentives, ratings, and deactivation. Such algorithmic control, though indirect, performs functions analogous to managerial supervision in traditional employment relationships⁹³⁷. Yet, the legal

⁹³² NITI Aayog, *India’s Booming Gig and Platform Economy: Perspectives and Recommendations on the Future of Work* 6–8 (2022).

⁹³³ Code on Social Security, 2020, No. 36 of 2020, §§ 2(35), 2(60) (India).

⁹³⁴ Code on Social Security, 2020, No. 36 of 2020, § 2(60) (India)

⁹³⁵ NITI Aayog, *India’s Booming Gig and Platform Economy: Perspectives and Recommendations on the Future of Work* 6 (2022).

⁹³⁶ Valerio De Stefano, *The Rise of the “Just-in-Time Workforce”: On-Demand Work, Crowd Work and Labour Protection in the “Gig-Economy”*, 37 *Comp. Lab. L. & Pol’y J.* 471, 489–92 (2016).

⁹³⁷ *Workmen of Nilgiri Coop. Mkt. Soc’y Ltd. v. State of Tamil Nadu*, (2004) 3 SCC 514

framework continues to treat platforms as neutral intermediaries rather than economic actors exercising control over labour. The inability of existing labour law categories to adequately capture the realities of platform-mediated work has resulted in a regulatory mismatch. Gig workers occupy a liminal space between full independent contractors and legal employees⁹³⁸. This lack of clarity is the basis for the ongoing legal grey zone that gig workers occupy, and serves as a starting point from which to query whether statutory recognition under the Code on Social Security, 2020 substantially changes this reality or simply consolidates precarity under a different name⁹³⁹.

II. Judicial Standards in Gig Workers' Employment Status decisions

The question of when a worker would be an employee in contrast to an independent contractor has long been the lynchpin of Indian labour jurisprudence. Indian courts have time and again emphasised that character of work must be ascertained by substance rather than the form of relationship between parties.⁹⁴⁰

A. Control and Supervision Test

One of the most important—first and evolved test put by Indian courts is the demonstration-influence test. In *Dhrangadhra Chemical Works Ltd. v. State of Saurashtra*, it was held by the Supreme Court that there is employer-employee relationship established with reference to the right of control which an employer has over his employee as regarding performance of service in a particular manner.⁹⁴¹ The Court noted that it is not about perfection of control, but the authority to direct and supervise work continues to be imperative.

Machine learning's answer to that paradox is the test for human free will. Although platforms are not physically present (direct supervision) in

the organization of work, they still exercise considerable ability to govern operations through algorithms which structure offloading itself (including pricing, incentives, and deactivation). This mediated, albeit technology-assisted, indirect control acts in a manner akin to classic managerial oversight.

B. Integration and Economic Reality Test

The Supreme Court has further developed the doctrine of employment classification through its adoption of the integration and economic dependence tests. Held, in *Workmen of Nilgiri Cooperative Marketing Society Ltd. v. State of Tamil Nadu* that persons who are part and parcel of the employer's business, and economically dependent on him; cannot be regarded as independent contractors only because they are so called by mere form or in name.⁹⁴²

It was also held in the case of *Secretary, Haryana State Electricity Board v. Suresh*⁹⁴³ that alleged contract by itself cannot wipe off employer-employee relationship and that the right approach is to look at the "economic realities" of substance over form while working out employment relationship. For many in the gig economy, participation in platform-based work represents a primary source of income, reflecting significant economic dependence.

Application to Gig and Platform Workers C.

While control, supervision, and economic dependence are present in a gig economy, Indian courts have so far shied away from conclusively identifying gig workers as employees. Some of this judicial wariness results from the lack of statutory guidance and some is due to platform-mediated labour being a new phenomenon. As a result, gig workers remain at the mercy of employers without the structural protections that agency status should entail.⁹⁴⁴

⁹³⁸ *Dhrangadhra Chemical Works Ltd. v. State of Saurashtra*, (1957) SCR 152

⁹³⁹ Indian Fed'n of App-Based Transp. Workers v. Union of India, W.P. (C) No. 1088 of 2021 (Sup. Ct. India) (pending).

⁹⁴⁰ *Workmen of Nilgiri Coop. Mkt. Soc'y Ltd. v. State of Tamil Nadu*, (2004) 3 SCC 514.

⁹⁴¹ *Dhrangadhra Chemical Works Ltd. v. State of Saurashtra*, (1957) SCR 152.

⁹⁴² *Workmen of Nilgiri Coop. Mkt. Soc'y Ltd.*, (2004) 3 SCC 514.

⁹⁴³ *Secretary, Haryana State Electricity Board v. Suresh*, (1999) 3 SCC 601, ¶¶ 8–10 (India).

⁹⁴⁴ *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 SCC 3.

III. Constitutional Concerns in the Regulation of Gig Work

The problem of regulation faced by gig workers is not a mere problem of labor laws, it raises very serious constitutional questions under Articles 14, Article 19(1)(g) and Article 21 of the Constitution.

A. Article 14: Right to Equality and Prohibition of Arbitrariness

Article 14 provides that there should be equality before the law and that no one could be subjected to arbitrary state action. Long-term protection of core labour rights is missing and this becomes all the more critical with increasing activity in the gig economy.

the exclusion of gig workers from the heart of labour protection, despite their similar function to other employees, is an arbitrary category without substantive connection with the end sought to be achieved by labour welfare legislation.) So in *E.P. Royappa vs State of Tamil Nadu*, SC ruled that it is *radix omnes malorum* – or root of all evils, like arbitrariness and discrimination are against equality.⁹⁴⁵ The structural inequality is entrenched behind a façade of flexibility.

B. Article 19(1)(g) – Freedom of Occupation

–right to practice any profession, or to carry on any occupation, trade or business is guaranteed under Article 19(1)(g). This is not to mention how the autonomy of gig workers to freely select when they work becomes heavily restricted in practice, constrained through mandatory acceptance rates, algorithmic penalties and unilateral deactivations by platforms. In *Excel Wear v. Union of India*, this Court had held that when an unreasonable restriction is placed on one's livelihood, it violates Article 19(1)(g).⁹⁴⁶ It is even more alarming to the lack of any procedural safeguards against arbitrary deactivation undermining occupational liberty of gig workers.

C. 21 of the Covenant: Right to life and human dignity

The right to livelihood and decent working conditions has been read widely into Article 21. The Supreme Court in *Olga Tellis v. Bombay Municipal Corporation* held that right to livelihood is inclusive within the Right to Life.⁹⁴⁷ More recently, in *Consumer Education and Research Centre v. Union of India*, the Court found that safe and humane working conditions were protected under Article 21.⁹⁴⁷ The precariousness and absence of social security and grievance redressal for gig workers denies the constitutional pledge to dignity and social justice in Article 21.

III How Zomato and Blinkit handle platform power job insecurity and unclear laws

A. Zomato: Where automated systems manage work schedules, yet workers believe they choose their hours freely One of the largest platforms for gig-based food delivery in India, Zomato relies on vast networks of riders in major cities. Though labeled “independent contractors,” these workers sign agreements that clearly reject any formal employment ties. Yet daily operations show tight oversight by the app – routines, penalties, routing – all pointing toward substantial managerial influence. What appears as autonomy often dissolves under real-time monitoring and algorithmic direction⁹⁴⁸. Control hides behind neutrality, shaping labor without naming it⁹⁴⁹.

Control at Zomato stems mostly from automated decision-making tools. Decisions about who gets jobs, how far riders travel, rewards offered, price changes during peak times, even fines for turning down orders – these come from hidden software processes workers cannot see or influence. High acceptance numbers and positive feedback shape what assignments appear later, whereas ongoing

⁹⁴⁵ *Excel Wear v. Union of India*, (1978) 4 SCC 224.

⁹⁴⁶ *Olga Tellis v. Bombay Municipal Corporation*, (1985) 3 SCC 545.

⁹⁴⁷ *Consumer Education & Research Centre v. Union of India*, (1995) 3 SCC 42.

⁹⁴⁸ *Silver Jubilee Tailoring House v. Chief Inspector of Shops*, (1974) 3 SCC 498.

⁹⁴⁹ *Hussainbhai v. Alath Factory Thezhilali Union*, (1978) 4 SCC 257

negative scores or frequent drop-offs may trigger sudden account removal, with no warning or chance to respond. Cutting someone off like this clash with basic fairness rules found in legal traditions around fair treatment. Flexibility is promoted heavily in company messaging; however, field research shows many riders must stay on duty much longer than expected just to hit income targets set by bonus schemes. What looks optional in theory becomes nearly mandatory in practice. Pressure of this kind suggests tighter supervision over daily working life than admitted, fitting definitions courts have used when deciding if gig roles resemble actual employment relationships

When accounts get deactivated without clear procedures, it touches upon Article 21 – seen in *Olga Tellis v. Bombay Municipal Corporation*⁹⁵⁰ – because people's ability to earn and live with respect comes into question. Unequal treatment among similar cases, driven by hidden algorithms, becomes problematic under Article 14 due to lack of fairness⁹⁵¹. What stands out is how silence from platforms deepens uncertainty for those affected.

Blinkit case study workers face risks gaps in accident coverage and insurance

On Blinkit's recruitment site, delivery workers see mention of accident and health coverage among their perks. Up to ten lakh rupees in medical protection appears listed there. The firm presents these benefits openly on its platform.⁹⁵² Yet the wording leans toward upbeat descriptions. Insurance is shown as part of joining, even if phrased attractively.

Yet worker polls show most get little real protection, even though companies say otherwise

A recent nationwide study revealed most platform-based delivery personnel lack

coverage for injuries or healthcare expenses. About 95 out of every 100⁹⁵³ respondents said they had zero access to accident or medical insurance through their work. These findings highlight a widespread gap in basic protections for independent contractors in the gig economy.⁹⁵⁴

A different study focusing on strikes by delivery personnel at fast-delivery companies like Blinkit found most such platforms offer no insurance for illness or injuries.⁹⁵⁵ Workers often have no assured base income or safeguards while on duty. What the numbers show does not match what delivery workers actually experience, despite platform promises about insurance coverage⁹⁵⁶.

Despite long shifts, some couriers log more than a hundred kilometres each day on roads. Workers for platforms like Blinkit frequently miss breaks, spending ten to twelve hours moving nonstop. Labour groups point out how common crashes have become among these riders. Without time off, fatigue builds, raising danger where vehicles move fast. Reports confirm injury rates climb under such strain.⁹⁵⁷

Even though India's Labour Codes require certain insurance protections – like those in the 2020 Social Security Code, which obliges aggregators to contribute to worker benefits such as accident cover – actual enforcement varies widely across regions. Workers involved in a recent walkout highlighted gaps in injury protection and safe working conditions, linking risks directly to rushed delivery schedules while also noting limited access to reliable aid systems

Looking at other platforms helps clarify things. Although Blinkit advertises insurance perks, real-world patterns across gig work reveal

⁹⁵⁰ Fairwork India Ratings 2022–23, Oxford Internet Institute & IIT Delhi

⁹⁵¹ ILO, *World Employment and Social Outlook: The Role of Digital Labour Platforms* (2021).

⁹⁵² Blinkit Delivery Partner Information (Insurance Coverage) (accessed Dec. 30, 2025)

⁹⁵³ Indian Gig Workers Fight for Social Security Benefits (reporting that 95.3% have no accident or health insurance) (accessed Dec. 30, 2025).

⁹⁵⁴ *State of Orissa v. Dr. (Miss) Binapani Dei*, (1967) 2 SCR 625.

⁹⁵⁵ Gig Workers, Zepto, Blinkit, Instamart, Swiggy, Zomato: Delivery Workers' Strike: Survey Highlights Low Wages, Other Challenges (NDTV) (accessed Dec. 30, 2025) (majority of platforms do not provide health or accident cover)

⁹⁵⁶ NITI Aayog, *India's Booming Gig and Platform Economy* (2022).

⁹⁵⁷ OMI Study on Platform Insurance: Hyperlocal delivery platforms offer ₹3–₹10 lakh coverage (accessed Dec. 30, 2025).

more. Information from the wider delivery sector adds perspective here

A recent analysis from the Ola Mobility Institute shows certain gig platforms include basic accident protection. Hyperlocal services typically cover injuries or disabilities ranging from ₹3 lakh to ₹10 lakh. Still, benefits differ significantly across companies. Many workers struggle to claim what they are entitled to

Few details emerge about Blinkit workers' claim outcomes. Yet Swiggy's figures tell another story: ₹31 crore paid out in FY 2023 alone⁹⁵⁸. Coverage included accidents, illness, and fatalities among delivery personnel. Most claims – 96 percent –⁹⁵⁹ closed fast, often under one week. This pace hints at smoother support than what appears common for rivals

Few delivery workers actually benefit, despite what hyperlocal services such as Blinkit advertise about reach – gaps persist in access, recognition, how claims are handled, and whether payouts truly arrive.

IV Conclusion Recognition without rights keeps people in limbo

A turning point in India's labour laws arrived with the Code on Social Security, 2020, granting legal visibility to gig and platform workers. While these work forms shape much of today's digital marketplace, they have long operated outside regulatory view. Despite this step forward, mere inclusion does not ensure meaningful support. What unfolds now is a system where classification exists without corresponding entitlements. Being named as a worker brings little benefit when basic protections remain out of reach. Recognition appears symbolic, not structural. Safeguards tied to traditional jobs are absent here. The result? A category of workers set apart – yet left behind.

What defines an employee? Indian court rulings offer clues. Notably, tests like control and supervision, integration, and economic reality

suggest gig workers often fit the profile. Platforms such as Zomato or Blinkit assign tasks, track output, enforce rules, even remove access – acts long seen as employer behaviour. Past decisions, including Dhrangadhra Chemical Works Ltd. versus State of Saurashtra, show judges look beyond paperwork. Substance matters more than title. This idea runs through cases involving cooperative societies and electricity boards alike. Still, when it comes to digital platforms, old principles stall. Why? Laws lag. Courts hesitate. Technology reshapes oversight, yet legal clarity stays absent.

Looking at Zomato and Blinkit shows what happens when laws fail to keep up. Although these companies promote benefits like injury coverage, most gig workers still go without real access to healthcare or financial support after accidents. Workers face long shifts, tight deadlines, sudden risks – all while rules meant to hold platform firms accountable remain poorly enforced.

Some platforms do pay out claims, yet many operate behind a curtain of secrecy, exposing how uneven safeguards truly are. What we see now is a system that offers recognition but no real rights. Placing gig workers beyond the traditional employee-employer setup, while leaving platform responsibilities to voluntary benefits, keeps uncertainty alive instead of clearing it up. When viewed through Roscoe Pound's idea – that labour law exists to serve fairness, not just rules – today's structure clearly misses the mark. To bring proper safeguards, laws must rethink classifications, impose firm duties on platforms, guarantee accessible social security, and allow courts to update hiring criteria for digital oversight. Without these changes, Indian law may name gig work but does little to defend those doing it.

⁹⁵⁸ Swiggy Insurance Claims Data (₹31 crore in payouts with 96% claims settled) (accessed Dec. 30, 2025).

⁹⁵⁹ Swiggy Sustainability & Insurance Disclosures FY 2022–23