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Social Security for Gig Workers: Examining the Legal Framework Under the Code on Social Security, 2020

Hanspal Bakul · 21 Sep 2026

The concept of Social Security for Gig Workers under the **Code on Social Security, 2020** marks the first time Indian labour law has formally recognised gig and platform workers as a distinct legal category, entitled to statutory welfare protections.

In force since November 2025, the law promises pension, health cover, and accident insurance to millions of delivery agents, cab drivers, and app-based workers. Yet a closer legal reading reveals that access to these benefits is far from automatic, and hinges on eligibility conditions still being tested.

For decades, India's labour law framework recognised **only two categories of workers: those in an employer-employee relationship, and everyone else.** Gig and platform workers fell into neither category cleanly, leaving them outside the protective scope of virtually every social welfare statute.

A New Statutory Category

The Code's most significant contribution is definitional. For the first time, Indian labour legislation formally distinguishes ***"gig workers" and "platform workers" as categories separate from both organised-sector employees and the broader unorganised workforce.***

This distinction matters legally because *it removes gig workers from a purely contractual, at-will relationship with aggregators and places them within a statutory welfare architecture - without, notably, reclassifying them as employees.*

This middle path avoids the more disruptive question of whether gig workers are, in substance, employees misclassified as independent contractors - a question courts in other jurisdictions, including the **UK Supreme Court in *Uber BV v. Aslam* (2021),** have answered in the affirmative.

Indian law has so far declined to take that route, opting instead for a ***sui generis welfare category.***

The Funding Mechanism and Its Legal Basis

The Code empowers the government to *require aggregators to contribute between one and two percent of annual turnover toward a Social Security Fund.*

This is a notable legislative choice: rather than mandating direct employer-style contributions tied to individual workers (as under the EPF or ESI framework), the obligation is structured as a turnover-linked levy on the platform itself, ***administered through a proposed National Social Security Board.***

This structure raises an underlying constitutional question worth flagging for analysis - *whether a turnover-based contribution, untethered from an employer-employee relationship, can coexist with the traditional doctrinal basis for social security legislation under* *Entry 23 and Entry 24 of the Concurrent List*, which historically presumed such a relationship as the trigger for statutory liability.

Eligibility Thresholds: A Potential Ground for Challenge

Draft rules under the Code *impose a minimum engagement threshold - ninety days with a single aggregator, or 120 days cumulatively across multiple aggregators within a financial year - before a worker qualifies for benefits.*

From a legal standpoint, this threshold is significant because gig work is structurally irregular; a worker may log substantial hours across platforms without crossing either individual threshold.

This creates a live question of whether such eligibility criteria could be challenged as arbitrary classification under **Article 14**, particularly if workers performing comparable aggregate labour are excluded from statutory benefit solely due to how their hours are distributed across platforms rather than any difference in vulnerability or need - the very mischief the Code was designed to address.

Health Coverage Under Ayushman Bharat: Implementation Gap

The government has announced that **gig and platform workers will be brought within Ayushman Bharat–Pradhan Mantri Jan Arogya Yojana (AB-PMJAY), extending annual health coverage of up to five lakh rupees per family.**

As of the most recent reporting, however, this extension remains announced rather than operationally implemented - illustrating a recurring feature of Indian welfare legislation, where statutory entitlement and administrative rollout proceed on separate timelines.

Federal Divergence: States Moving Ahead of the Centre

In the absence of finalised central rules, several states enacted their own gig-worker welfare legislation.

Rajasthan's Platform Based Gig Workers Act was the first such law, followed by **Karnataka's Platform-Based Gig Workers (Social Security and Welfare) Act, 2025**, which set welfare fees between one and five percent of turnover based on aggregator category, and introduced a structured two-tier grievance mechanism: *an Internal Dispute Resolution Committee at the platform level*, with escalation to a state Welfare Board if unresolved within fourteen days.

Bihar and Jharkhand have since enacted comparable legislation.

This raises a genuine question of legislative competence and repugnancy under **Article 254**, given that both Parliament and State legislatures are now regulating overlapping subject matter - gig worker welfare - under the Concurrent List, with state laws in some respects providing more expansive protection than the central framework.

The Unresolved Classification Question

Notably, none of these interventions - central or state - extend minimum wages, paid leave, or gratuity to gig workers, since these remain contingent on formal employee status.

The Code's welfare-category approach sidesteps rather than resolves the deeper classification debate that has occupied courts internationally. Whether Indian courts will eventually be called upon to examine the substance of the aggregator-worker relationship, rather than accept the Code's categorical label, remains an open and analytically significant question.