# BETWEEN "PARTNER" AND "EMPLOYEE": PLATFORM WORK, ALGORITHMIC CONTROL AND THE UNFINISHED ARCHITECTURE OF LABOUR PROTECTION IN INDIA

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**ABSTRACT**

India's platform economy has expanded faster than the legal categories meant to govern work. Delivery riders, ride-hailing drivers and home-service professionals are contractually styled "partners", yet they work under pricing, allocation, rating and deactivation regimes that are set unilaterally by software. This paper examines how Indian labour law has responded. It traces the pre-codification position under the control, integration and economic-reality tests; analyses the first statutory recognition of "gig workers", "platform workers" and "aggregators" in the Code on Social Security, 2020, which entered into force on 21 November 2025, and the Social Security (Central) Rules, 2026; and maps the parallel state statutes of Rajasthan, Karnataka, Bihar, Jharkhand and Telangana. It argues that India has adopted a scheme-based, contribution-funded model that deliberately avoids the question of employment status, and that this choice leaves unresolved wages, algorithmic due process, collective bargaining and occupational safety. The paper further analyses the Article 254 repugnancy challenge pending before the Karnataka High Court, the constitutional claims under Articles 14, 19(1)(c), 21 and 23, and comparative developments in the United Kingdom, Spain, California, the European Union and Singapore. It concludes with a calibrated reform agenda: a rebuttable presumption of employment, an intermediate protected category, statutory algorithmic due process, and harmonised central–state financing.

**Keywords:** gig economy; platform workers; aggregators; Code on Social Security 2020; employment status; algorithmic management; Article 254; labour federalism

## 1. INTRODUCTION

A delivery rider in an Indian metropolis logs into an application, is offered a task at a price she did not negotiate, is timed by a clock she cannot see being set, is rated by a customer whose complaint she cannot answer, and may be logged out of her livelihood without a hearing. Her contract describes her as an independent "partner". Her income, however, is determined almost entirely by the platform's code. This tension between contractual form and economic reality is the central problem of platform-work regulation, and it is the problem with which Indian labour law has been wrestling, with limited success, for nearly a decade.

The scale of the phenomenon is considerable. NITI Aayog estimated that about 7.7 million workers were engaged in the gig economy in 2020–21 and projected growth to roughly 23.5 million by 2029–30.[1] Yet until very recently the statute book did not contain the words "gig worker". The Industrial Disputes Act, 1947, the Employees' State Insurance Act, 1948, the Employees' Provident Funds Act, 1952 and the Minimum Wages Act, 1948 were built around the factory, the establishment and the identifiable employer. Platform work disrupts each of those anchors.

The legal landscape has now changed in a way that makes a fresh doctrinal study necessary. The four labour codes were brought into force on 21 November 2025. The Social Security (Central) Rules, 2026 were notified on 8 May 2026. Rajasthan (2023), Karnataka (2025), Bihar and Jharkhand (2025) and Telangana (2026) have enacted state-level legislation, and the validity of the Karnataka statute is presently under challenge in the Karnataka High Court on the ground of repugnancy to the central Code. A writ petition seeking recognition of gig workers as "unorganised workers" has been pending in the Supreme Court since 2021. Existing scholarship, much of it written when the Code was still dormant, is therefore partly overtaken.

This paper makes three contributions. First, it provides a consolidated account of the law as it stands on 26 October 2026, distinguishing what is in force from what remains notified-in-principle only. Second, it analyses the interaction between the central Code and state statutes as a problem of constitutional federalism, and not merely of policy. Third, it offers a reform agenda grounded in the Indian constitutional text and in comparative experience. Part 2 sets out the research questions and method. Part 3 supplies conceptual background. Part 4 examines

[1] NITI Aayog, *India's Booming Gig and Platform Economy: Perspectives and Recommendations on the Future of Work* (June 2022).

employment-status doctrine. Parts 5 to 7 analyse the central codes and state laws. Parts 8 and 9 address federalism and constitutional rights. Part 10 identifies substantive protection gaps. Part 11 offers comparative perspective, Part 12 recommendations, and Part 13 concludes.

## 2. RESEARCH QUESTIONS AND METHODOLOGY

The study asks five questions: (i) what is the legal status of platform workers under Indian law before and after the labour codes; (ii) what rights and obligations does the Code on Social Security, 2020 create, and how far have they been operationalised; (iii) how do state statutes differ from the Code and from each other; (iv) is the co-existence of central and state regimes constitutionally sustainable; and (v) what reforms are warranted in light of constitutional principle and comparative experience.

The method is doctrinal and comparative. Primary sources include statutes, rules, notifications, judgments and court orders. Secondary sources include policy reports, scholarly commentary and contemporaneous legal and press reporting. Because several developments are recent and some litigation is at the interim stage, the paper identifies where its statements rest on press or practitioner reports rather than on the text of an order or notification, and the reader is advised to verify those points against the primary instrument before reliance. The study is not empirical; it does not claim to measure earnings or working conditions, and where it refers to such conditions it relies on the cited reports and on the claims made in litigation.

## 3. CONCEPTUAL AND EMPIRICAL BACKGROUND

### 3.1 Gig work, platform work and the aggregator

The Code on Social Security, 2020 ("the SS Code") is the first central statute to define the relevant terms.[2] A "gig worker" is a person who performs work or participates in a work arrangement and earns from it outside a traditional employer–employee relationship. A "platform worker" is a person engaged in or undertaking platform work, that is, work in which an organisation or individual uses an online platform to access other organisations or individuals to solve specific problems or provide specific services in exchange for payment. An "aggregator" is a digital intermediary or marketplace that connects a buyer or user of a

[2] Code on Social Security, 2020 (Act 36 of 2020), s 2. The definitions are at s 2(9) (aggregator), s 2(35) (gig worker) and s 2(61) (platform worker).

service with the seller or service provider. The Seventh Schedule lists the aggregator categories to which the contribution regime attaches, including ride-sharing services, food and grocery delivery, e-marketplaces, professional services, healthcare, travel and hospitality, and content and media services.

Two features of these definitions deserve emphasis. The words "outside a traditional employer–employee relationship" make the statutory category definitionally non-employment; the legislature did not decide that platform workers are not employees, but it defined a category that presupposes they are not. And the distinction between "gig worker" and "platform worker" is not coterminous with the distinction between offline and online work, so the overlap between the two creates interpretive uncertainty that the Rules have not entirely removed.

### 3.2 Algorithmic management as the source of legal difficulty

The doctrinal difficulty arises from the manner in which control is exercised. Traditional employment control is personal and observable: a supervisor assigns, inspects and disciplines. Platform control is embedded in software. The platform fixes or heavily influences the price, allocates tasks, monitors location and speed, imposes acceptance and cancellation penalties, rates performance through customer feedback, offers variable incentives that shape working hours, and deactivates accounts. Workers often cannot see the logic by which these decisions are made. At the same time the platform's standard-form agreement characterises the worker as an independent contractor free to accept or reject tasks. Whether that freedom is real, or is hollowed out by incentive design and by the worker's dependence on a small number of platforms, is the factual core of the status debate.

## 4. EMPLOYMENT STATUS UNDER INDIAN LAW

### 4.1 The judicial tests

Indian courts have never adopted a single test of employment. The earliest approach was the control test, under which the decisive question is whether the principal controls not only what is to be done but how it is to be done.[3] The Supreme Court later treated control as only one factor within a multiple-factor inquiry, which also considers the ownership of tools, the power

[3] *Dharangadhara Chemical Works Ltd v State of Saurashtra* AIR 1957 SC 264; *Silver Jubilee Tailoring House v Chief Inspector of Shops and Establishments* (1974) 3 SCC 498.

of selection and dismissal, the mode of payment and the degree of integration into the enterprise.[4]

The most expansive articulation is in *Hussainbhai v Alath Factory Thozhilali Union*, where the Court looked past a contractual intermediary and held that a person who labours for the business of another, producing goods or services for that other's enterprise, is in substance the employee of that enterprise.[5] The Court has since reaffirmed that the existence of a contract labelled otherwise does not foreclose scrutiny of the real relationship, while also requiring proof of effective control and supervision in the contract-labour context.[6]

### 4.2 Application to platforms

Measured against these tests the platform relationship presents a mixed picture. Factors pointing towards employment include unilateral price-setting, algorithmic task allocation, continuous monitoring, performance rating with consequences, disciplinary deactivation, and the integration of the worker's labour into a service that is sold under the platform's own brand. Factors pointing the other way include the worker's ownership of the vehicle or phone, the absence of fixed hours, the formal freedom to decline tasks, and the possibility of working simultaneously on several apps.

A court applying the economic-reality approach of *Hussainbhai* could find that many delivery and ride-hailing workers are, in substance, employees of the platform. The control that matters is control over the economic terms on which work is performed, and that control rests almost entirely with the aggregator. No Indian court has so held in a reported final decision of general application, and the question has instead been displaced by legislative choice: Parliament defined a separate category and thereby removed much of the immediate incentive to litigate status. This is significant for the analysis that follows, because it means that the statutory category and the common-law doctrine now coexist without a reconciling rule.

[4] *Shivanandan Sharma v Punjab National Bank Ltd* AIR 1955 SC 404; *Bangalore Water Supply and Sewerage Board v A Rajappa* (1978) 2 SCC 213 (on the organisational and cooperative character of an industry).
[5] *Hussainbhai, Calicut v Alath Factory Thozhilali Union* (1978) 4 SCC 257.
[6] *Steel Authority of India Ltd v National Union Waterfront Workers* (2001) 7 SCC 1; *Balwant Rai Saluja v Air India Ltd* (2014) 9 SCC 407.

### 4.3 The Unorganised Workers' Social Security Act, 2008

Before the SS Code the only plausible statutory home for platform workers was the Unorganised Workers' Social Security Act, 2008, which defines an "unorganised worker" to include a home-based worker, a self-employed worker or a wage worker in the unorganised sector.[7] The Act established no enforceable entitlements and left the design of schemes to government. In *Indian Federation of App-based Transport Workers v Union of India*, the petitioners argued that platform contracts violate Articles 14, 21 and 23 and sought a declaration that gig workers are unorganised workers under the 2008 Act.[8] During the hearings the bench observed that, with the Code unimplemented, a vacuum existed in which gig workers were protected neither by the 2008 Act nor by the Code, and on 18 February 2025 it directed the Union to file an affidavit stating the timeline for framing the rules and schemes under Chapter IX of the Code.[9]

## 5. THE CODE ON SOCIAL SECURITY, 2020

### 5.1 Architecture

Chapter IX of the SS Code, headed "Social Security for Unorganised Workers, Gig Workers and Platform Workers", is the operative provision. It does not extend the Employees' Provident Fund or Employees' State Insurance regimes to platform workers. It instead authorises the Central Government to frame and notify welfare schemes, for matters such as life and disability cover, accident insurance, health and maternity benefits, old-age protection and creche facilities, and to do so through the machinery of a separate Social Security Fund.[10] The National Social Security Board, constituted under the Code, has a specific composition when it acts in respect of gig and platform workers, including five aggregator representatives, five worker representatives, the Director General of the ESIC and state representatives.[11]

[7] Unorganised Workers' Social Security Act, 2008 (Act 33 of 2008), s 2(m).
[8] *Indian Federation of App-based Transport Workers (IFAT) v Union of India*, WP(C) 1068/2021 (SC). The petition was filed in September 2021 and notice was issued in December 2021.
[9] Order dated 18 February 2025, WP(C) 1068/2021 (Datta and Manmohan JJ).
[10] SS Code, ss 113–114 and s 141. For a practitioner analysis of the scheme-based design, see "EPF Compliance in the Gig Economy: Is India's New Social Security Framework Enough?" (Chambers and Partners / K&S Partners, August 2026).
[11] SS Code, s 6(9).

### 5.2 Registration and the aggregator contribution

Registration of gig and platform workers is by a designated central portal, which in practice is the e-Shram portal launched in August 2021. Aggregators in the Seventh Schedule categories are to contribute to the scheme fund an amount between one and two per cent of annual turnover, subject to a ceiling of five per cent of the amount paid or payable by the aggregator to gig and platform workers.[12] The ceiling operates as a protection for low-margin aggregators whose turnover is high relative to payouts, such as marketplaces.

The Social Security (Central) Rules, 2026, notified on 8 May 2026, supply procedure. Aggregators must register on the designated portal, share details of engaged workers electronically or through an application programming interface within 45 days of the Rules taking effect, and follow a self-assessment contribution cycle in which a provisional payment is made by 30 June and an audited final return and balancing payment by 31 October (Rule 49).[13] A draft of the Rules published on 31 December 2025 proposed an eligibility threshold of at least ninety days of engagement with an aggregator in the preceding financial year, or one hundred and twenty days across multiple aggregators; the paper treats the final form of that condition as a point to be verified against the notified Rules and any subsequent order.[14]

### 5.3 Implementation status

Table 1 summarises the position. The main finding is that data-collection and registration machinery has moved faster than the benefit side. Commentary reported that cover follows only once schemes are notified under section 114, and that none had been notified by mid-2026, with registered gig workers on the portal numbering roughly twelve lakh.[15] Separately, the Union Budget for 2025–26 announced identity cards, e-Shram registration and health coverage under the Pradhan Mantri Jan Arogya Yojana for gig workers, which operate outside

[12] SS Code, s 114(4). The rate within the statutory band and the date of commencement of the contribution are to be notified. Commentary dated 18 October 2026 records that neither had been notified: see Taxmann/TaxGuru, "Aggregator Contribution under Section 114(4) of the Code on Social Security, 2020".

[13] Social Security (Central) Rules, 2026, notified 8 May 2026; DLA Piper, "India mandates aggregator onboarding to eShram portal to expand social security coverage" (24 June 2026). Non-compliance with information duties may attract penalties under s 133 of the Code.

[14] Draft Code on Social Security (Central) Rules, 2025, published 31 December 2025, reported in Outlook Business, "Labour Ministry Proposes 90-Day Annual Work Threshold For Gig Worker Social Security".

[15] Taxmann commentary as summarised in IMPRI, "Welfare Governance for Gig Workers under the Social Security (Central) Rules, 2026" (2026). The figure should be verified against current e-Shram data.

the Code as executive schemes.

**Table 1: Status of key central measures (as on 26 October 2026)**

| Measure | Position | Operational gap |
|---|---|---|
| Code on Social Security, 2020 | In force from 21 November 2025; definitions and Chapter IX operative | Benefits depend on notified schemes |
| Social Security (Central) Rules, 2026 | Notified 8 May 2026; registration, data-sharing, Rule 49 contribution procedure | Rate and commencement of contribution awaited |
| Aggregator contribution, s 114(4) | 1% to 2% of turnover, capped at 5% of worker payouts | Not notified as of 18 October 2026 |
| Schemes under s 114 | Enabling provision; no scheme reported as notified by mid-2026 | Cover is not yet legally enforceable |
| e-Shram registration | Operational; aggregator onboarding module created | Coverage and verification uneven |

### 5.4 Critical assessment

The SS Code's design has four structural limitations. First, it is scheme-based rather than entitlement-based. A statute that authorises the government to notify schemes does not give the worker a justiciable right to any particular benefit until a scheme is notified, and the schemes can be changed or withdrawn by notification. Second, it is financed by a turnover levy whose rate remains unfixed, so the fiscal base of the promised benefits is uncertain. Third, it does not touch wages, hours, safety or termination, because those subjects belong to the other codes, which use the language of "employee" and "worker". Fourth, the contribution is paid by the aggregator but the worker may need to meet eligibility conditions based on days of engagement, which can exclude the most precarious and the most mobile workers.

## 6. THE OTHER LABOUR CODES AND THE PROTECTION GAP

The Code on Wages, 2019, the Industrial Relations Code, 2020 and the Occupational Safety, Health and Working Conditions Code, 2020 operate through the concepts of "employee",

"worker" and "employer".[16] A platform worker who is classified as a gig worker, and not as an employee, falls outside the statutory minimum wage, the machinery for industrial disputes including the protections around retrenchment and standing orders, and the employer's statutory safety duties. The consequences are practical. A rider has no statutory floor on earnings per hour; an unjustified deactivation cannot be challenged as a dismissal before an industrial tribunal; and the safety duties in the OSH Code, such as those concerning safe working conditions and welfare facilities, are not framed as aggregator obligations.

The Industrial Relations Code also changes the legal environment for collective action. It extends the requirement of prior notice before a strike, which was formerly confined to public utility services, to industrial establishments generally.[17] The nationwide gig-worker strike of 31 December 2025, called by unions including the Indian Federation of App-Based Transport Workers and the Telangana Gig and Platform Workers Union, occurred in a legal space in which it was unclear whether the notice requirements applied to workers who are not "workers" in the statutory sense and whether the unions were registrable and recognisable under the Trade Unions framework. The point has not been judicially tested and should be flagged as an open question.

## 7. STATE LEGISLATION

Labour is a Concurrent List subject. Entries 22, 23 and 24 of List III cover trade unions and industrial disputes, social security and social insurance, and the welfare of labour including conditions of work, provident funds and old-age pensions. States are therefore competent to legislate, subject to Article 254. Rajasthan was first, enacting the Rajasthan Platform Based Gig Workers (Registration and Welfare) Act in 2023. Karnataka followed with the Karnataka Platform-Based Gig Workers (Social Security and Welfare) Act, 2025, and Bihar and Jharkhand enacted statutes in 2025. Telangana's legislation was reported as passed in 2026.[18] The common pattern is registration of platforms and workers, a statutory welfare board, a welfare fee levied on the aggregator by reference to transactions or payouts, and a grievance mechanism.

[16] Code on Wages, 2019 (Act 29 of 2019); Industrial Relations Code, 2020 (Act 35 of 2020); Occupational Safety, Health and Working Conditions Code, 2020 (Act 37 of 2020).
[17] Industrial Relations Code, 2020, s 62.
[18] "Karnataka Gig Workers Act: What the law says and why it's contested", Business Standard (8 July 2026) (recording the sequence of state enactments).

**Table 2: State statutes compared (summary; verify against statutory text before citation)**

| State | Year | Core features | Status notes |
|---|---|---|---|
| Rajasthan | 2023 | Registration of workers and platforms; welfare board; welfare fee; grievance mechanism | First state statute; implementation reported to depend on rules and board constitution |
| Karnataka | 2025 | Registration; welfare board; welfare fee of 1% to 5% of payout per transaction; compliance notices to aggregators | Board constituted 27 January 2026; fee reported at about 1% for food and grocery delivery and fixed paise per ride for ride-hailing; under challenge |
| Bihar | 2025 | Registration; welfare board; social security benefits | Reported as enacted; limited implementation reporting |
| Jharkhand | 2025 | Gig worker welfare framework | Reported as passed in 2025 |
| Telangana | 2026 | Platform-based gig workers framework | Reported as passed in 2026 |

The significance of the Karnataka statute lies in its operational reach. Reports describe it as the first state law to move beyond enactment to constituting a board, notifying a welfare contribution and issuing compliance notices to platforms.[19] By contrast to the central Code's turnover levy, which is yet to be fixed, Karnataka's transaction-based fee is already payable, and it is this fact that precipitated litigation.

## 8. CENTRE–STATE CONFLICT AND ARTICLE 254

### 8.1 The litigation

In *Internet and Mobile Association of India v State of Karnataka*, the Internet and Mobile Association of India and platforms including Eternal Ltd (Zomato and Blinkit), Swiggy, Zepto, Urban Company and Valmo Transportation challenged the Karnataka Act and Rules, and the

[19] "The Legal Battle That Could Reshape India's Gig Economy", Inc42 (July 2026).

notification of 27 January 2026 constituting the Welfare Board.[20] The principal ground is that the SS Code is a comprehensive central enactment on gig and platform work, that almost every provision of the state Act mirrors it, and that the state law is therefore repugnant under Article 254. The State responded that the Code and the state Act can co-exist, that the state law is directed at gig workers operating within the State, and that comparable statutes exist in Rajasthan, Bihar and Telangana.

On 3 July 2026 the High Court refused to stay the Act, but directed the petitioners to deposit the disputed second-quarter welfare fee with the court registry within three weeks and restrained coercive action against them in the meantime. The Advocate General assured the Court that the fee would not be utilised pending the decision. The bench reportedly observed that the sums were small relative to the platforms' service charges, and questioned how the fee would be applied, drawing a comparison with construction-worker cess funds that courts have found to be underutilised.[21] The constitutional challenge remains pending.

**8.2 Analysis**

Article 254(1) provides that where a state law on a Concurrent List subject is repugnant to an existing Parliamentary law, the Parliamentary law prevails and the state law is void to the extent of repugnancy; Article 254(2) saves a state law that has received Presidential assent. The Supreme Court's repugnancy jurisprudence asks whether the two laws are directly inconsistent, whether Parliament intended its law to be a complete code on the subject so as to occupy the field, and whether the state law conflicts in a manner that makes simultaneous compliance impossible.[22]

Four observations follow. First, the "occupied field" argument is weakened by the fact that the SS Code's gig and platform provisions are enabling and scheme-based, and that the central contribution had not been fixed or commenced, which supports the view that Parliament did not exhaustively regulate the field. Second, the argument for the petitioners is strengthened by the overlap in subject and in financing instruments: two levies on the same payout, imposed by

[20] *Internet and Mobile Association of India v State of Karnataka* (Karnataka HC), interim order of 3 July 2026, as reported by LiveLaw, Bar and Bench and Deccan Herald. The paper relies on press reports of the order and not on the order itself.
[21] See LiveLaw, Bar and Bench, The News Minute and Business Today reports of 3–4 July 2026.
[22] *Zaverbhai Amaidas v State of Bombay* AIR 1954 SC 752; *Deep Chand v State of UP* AIR 1959 SC 648; *M Karunanidhi v Union of India* (1979) 3 SCC 431.

two governments for the same class of beneficiary, create a risk of double burden. Third, there is a timing wrinkle. The Code was enacted in 2020 but commenced in 2025, so the Rajasthan statute of 2023 and the Karnataka statute of 2025 were enacted against a Parliamentary law that was on the statute book but not in force; whether that law is an "existing" law for Article 254 purposes at the time of the state enactment is a question the Court may need to address. Fourth, whether any of the state laws received Presidential assent under Article 254(2) will be relevant to whether repugnancy, if found, is cured. These are questions of law on which the paper expresses no concluded view, since the matter is pending.

A pragmatic outcome would be harmonisation in which the state schemes operate as a supplement to a central floor, and portability and offset mechanisms prevent the double levy. The High Court itself reportedly asked whether, if the central Code is only a foundation, a State may improve upon it. That framing is consistent with the Supreme Court's approach to cooperative federalism in labour matters, though it will depend on the final text of the Code's rules and on the notified rate.

## 9. CONSTITUTIONAL DIMENSIONS

### 9.1 Articles 14 and 21

The petitioners in *IFAT* invoke Article 14, arguing that the exclusion of platform workers from social-security statutes, while similarly situated workers are included, is arbitrary. Article 21 has been read to include the right to livelihood and to live with dignity.[23] A procedural dimension arises where deactivation destroys livelihood: the principle in *Maneka Gandhi v Union of India* that procedure affecting life and liberty must be fair, just and reasonable supports a claim to notice and an opportunity to be heard.[24] The obstacle is horizontal application, since platforms are private actors. The Constitution Bench in *Kaushal Kishor v State of Uttar Pradesh* held that certain fundamental rights, including Article 21, can be enforced against private persons, which strengthens the argument, though its application to commercial contracts remains to be developed.[25]

[23] *Olga Tellis v Bombay Municipal Corporation* (1985) 3 SCC 545; *Francis Coralie Mullin v Administrator, Union Territory of Delhi* (1981) 1 SCC 608.
[24] *Maneka Gandhi v Union of India* (1978) 1 SCC 248.
[25] *Kaushal Kishor v State of Uttar Pradesh* (2023) 4 SCC 1.

### 9.2 Article 23

Article 23 prohibits begar and other forms of forced labour. In *People's Union for Democratic Rights v Union of India* the Court held that labour extracted for less than the minimum wage under economic compulsion falls within the prohibition, and in *Bandhua Mukti Morcha v Union of India* it affirmed a wide understanding of the Article.[26] The IFAT petition relies on this line, and unions have used the language of forced labour in describing the pressure of ultra-fast delivery models. The doctrine would need to be extended with care: platform work is formally voluntary, and the claim depends on showing that economic compulsion and algorithmic penalty combine to deprive the worker of real choice.

### 9.3 Article 19(1)(c) and the Directive Principles

Article 19(1)(c) protects the right to form associations and unions, and the registered Trade Unions framework does not confine membership to employees in the strict sense. The practical obstacle is not formation but recognition and bargaining: no statute obliges an aggregator to bargain with a union of platform workers. The Directive Principles in Articles 38, 39(e), 41, 42 and 43, concerning social order, the health of workers, the right to work and public assistance, humane conditions of work and a living wage, supply interpretive guidance and have been used by the Court to read content into fundamental rights, which gives them real weight in construing the SS Code.

## 10. SUBSTANTIVE PROTECTION GAPS

**Table 3: Protection map for a platform worker**

| Protection | Employee under the Codes | Gig worker under SS Code | Remaining gap |
|---|---|---|---|
| Minimum earnings | Yes (Code on Wages) | No | No statutory floor or transparent fare formula |
| Social security | EPF, ESI, gratuity | Schemes under s 114 once notified | No enforceable benefit yet; eligibility thresholds |

[26] *People's Union for Democratic Rights v Union of India* (1982) 3 SCC 235; *Bandhua Mukti Morcha v Union of India* (1984) 3 SCC 161.

| Protection | Employee under the Codes | Gig worker under SS Code | Remaining gap |
|---|---|---|---|
| Termination safeguards | Industrial tribunals; notice and compensation | No | No due process for deactivation |
| Safety and health | OSH Code duties on employer | Not framed as aggregator duty | Delivery-time pressure, heat, accidents, insurance |
| Collective bargaining | Recognition frameworks | No statutory duty to bargain | No recognition or sectoral bargaining |
| Data and algorithmic transparency | Limited | None specific | DPDP Act applies generally; no explanation right |

### 10.1 Earnings and payment

The most consequential gap is earnings. Platform pay is made of base fare, distance components, incentives and penalties, and is modified algorithmically. Absent a statutory floor, workers bear the cost of fuel, maintenance and idle time. Fuel-price shocks illustrate the point: workers on Swiggy, Zomato, Blinkit and Zepto announced a strike in March 2026 over fuel prices, and platform fee increases to consumers in the same period did not obviously reach workers.[27] A model suited to India would require disclosure of the pay formula and the share of the consumer price passing to the worker, and would set a minimum rate for engaged time.

### 10.2 Algorithmic management and deactivation

Deactivation is the platform equivalent of dismissal, but without notice, reasons or review. Principles of natural justice, the Article 21 jurisprudence outlined above and the transparency principles of data-protection law jointly support a requirement of written reasons, prior notice save in cases of serious misconduct, human review and an independent appeal. The Digital Personal Data Protection Act, 2023 gives data principals rights of access and correction and imposes obligations on data fiduciaries, and recognises certain employment-related processing as a legitimate use, but it contains no specific right to an explanation of automated decisions or to contest them.[28] The European Union has addressed this gap directly in its platform-work

[27] Reports compiled in India TV News, "Swiggy, Zomato, Blinkit, Zepto workers announce strike over fuel price hike" (20 March 2026).

[28] Digital Personal Data Protection Act, 2023 (Act 22 of 2023). The employment-related ground for processing is

directive, discussed below.

### 10.3 Safety and the ten-minute delivery model

The December 2025 strike demanded an end to ultra-short delivery promises, arguing that they induce dangerous riding and psychological strain. On 13 January 2026 the Union Labour Minister met platform representatives, and Blinkit, Zepto, Swiggy and Zomato agreed to drop the "10-minute delivery" branding.[29] Two points should be noted. The action was a negotiated, voluntary undertaking, not a legal command, and it concerned branding; the underlying incentive structures and delivery-time algorithms remain unregulated. The episode demonstrates that executive persuasion can produce quick change but is not a substitute for an enforceable safety duty.

### 10.4 Transport aggregators

For ride-hailing there is a parallel regulatory strand in the Motor Vehicles Act, 1988 and the central guidelines for motor-vehicle aggregators, which in their 2025 version reportedly address surge pricing limits, driver share of fare and insurance cover. These instruments govern the permitted business model and consumer protection and are not labour statutes, but they show a regulatory technique, the fixing of minimum driver share and mandatory insurance, that could be adapted for delivery platforms.[30]

### 10.5 Inclusion

Women, migrant and older workers face compounded risks: night-time travel, harassment by customers, lack of facilities and the absence of maternity protection. The SS Code lists maternity benefits among permissible scheme content, but no scheme has yet been notified. Statutory workplace-harassment protections, framed around the employer–employee relationship, do not clearly extend to an aggregator's workers.

in s 7; whether it extends to platform workers who are not employees is itself uncertain.

[29] "Centre pushes quick commerce platforms to drop 10-minute delivery promise", Impact (13 January 2026); Outlook Business and The Quint reports of the same period.

[30] Ministry of Road Transport and Highways, Motor Vehicle Aggregator Guidelines, 2025 (issued July 2025). The specific percentages should be verified against the text of the Guidelines before citation.

## 11. COMPARATIVE PERSPECTIVES

Comparative experience shows three regulatory strategies: reclassification, a presumption of employment, and an intermediate category with a floor of protection.

**Table 4: Selected comparative approaches**

| Jurisdiction | Instrument | Approach |
|---|---|---|
| United Kingdom | *Uber BV v Aslam* [2021] UKSC 5 | Drivers held to be "workers" for minimum wage, working-time and holiday-pay rights, by looking at the reality of control in the contractual arrangement |
| Spain | STS 805/2020 (Glovo); Real Decreto-ley 9/2021 | Supreme Court found riders to be employees; the 2021 reform created a presumption of employment for delivery platform riders and transparency about algorithms affecting working conditions |
| California, USA | *Dynamex* (2018); Proposition 22 (2020); *Castellanos v State of California* (2024) | ABC test for employee status was displaced for app-based drivers by a ballot measure granting limited benefits; the California Supreme Court upheld it in 2024 |
| European Union | Directive (EU) 2024/2831 | Rebuttable legal presumption of employment where facts indicating control and direction exist; rules on algorithmic management, human oversight and information to workers; transposition due by December 2026 |
| Singapore | Platform Workers Act 2024 | Intermediate category with employment-like contributions to the pension fund, work-injury compensation and representation through platform-work associations, without full employee status |

The UK decision is instructive because it shows a court looking beyond contractual labelling at the realities of control, in a way that is consistent with the Indian approach in *Hussainbhai*. The Spanish and EU models show how a presumption shifts the burden to the platform. California shows the political and economic salience of the platform's counter-mobilisation. Singapore demonstrates that an intermediate category can deliver real contributions without determining the binary question of employment. India's Code resembles Singapore's approach in form but lacks the specificity of mandatory contributions, injury compensation and

representation that make the Singapore model operational.[31]

## 12. RECOMMENDATIONS

The analysis points to a reform agenda that is incremental, constitutionally grounded, and capable of being pursued by the Union and the States without waiting for a final judicial resolution of the status question.

1. **Notify the contribution and the schemes.** The Central Government should fix the aggregator contribution rate and its commencement, and notify at least a core scheme of accident, health and life cover, so that Chapter IX produces enforceable benefits. Eligibility thresholds should be calibrated to accommodate multi-apping workers.

2. **Introduce a rebuttable presumption of employment.** A statutory presumption, triggered by indicators such as control over pricing, task allocation, monitoring and deactivation, would shift the burden to the aggregator to prove genuine independence. It would draw on the economic-reality tradition in *Hussainbhai* and on the Spanish and EU models, and would prevent the "partner" label from foreclosing inquiry.

3. **Create an intermediate protected category.** For workers who are not employees, the Code should specify a floor, comprising a minimum earnings rate for engaged time, timely payment, injury compensation and insurance, funded in part by the aggregator contribution.

4. **Enact algorithmic due process.** Aggregators should be required to disclose the pay formula and the main parameters of task allocation and rating, to give written reasons and prior notice for deactivation, to provide human review, and to submit to an independent appellate forum with a time-bound procedure.

5. **Harmonise central and state regimes.** Rules should provide for mutual recognition of registration, portability of benefits across States, and a set-off between the central contribution and state welfare fees, so that platforms are not doubly charged and

[31] Directive (EU) 2024/2831 of the European Parliament and of the Council of 23 October 2024 on improving working conditions in platform work; Platform Workers Act 2024 (Singapore), in force 1 January 2025; *Castellanos v State of California*, Cal Supreme Court, 25 July 2024; *Dynamex Operations West Inc v Superior Court* 4 Cal 5th 903 (2018).

workers are not caught between regimes. A central framework law with room for supplementary state schemes would reduce the repugnancy risk.

6. **Protect collective voice.** The law should clarify that platform-worker unions are registrable, and should provide for sectoral or platform-level consultation machinery with a duty on aggregators to engage in good faith.

7. **Establish enforceable safety duties.** The aggregator should have a duty of care covering delivery-time design, extreme-weather protocols, vehicle and equipment safety, and insurance, enforced through inspection and penalties and not through branding undertakings.

8. **Ring-fence and audit welfare funds.** In view of the judicial concern about underutilised cess funds, welfare collections should be held in a dedicated fund, subject to independent audit and public reporting of receipts and disbursements.

## 13. CONCLUSION

India has moved from silence to recognition. The Code on Social Security, 2020 defines the gig worker, the platform worker and the aggregator, creates a fund and a board, and obliges aggregators to register, share data and contribute. The states have gone further in some respects and have begun to levy and collect. Yet recognition is not yet protection. The benefits depend on schemes not yet notified, the central contribution rate remains unfixed, and the central and state regimes are in legal tension that the Karnataka High Court has yet to resolve.

More fundamentally, the legal architecture has chosen to leave the status question unanswered. That is a defensible short-term compromise, but it leaves untouched the questions that matter most to the worker in daily life: what she is paid for her time, whether she can be removed without reasons, whether she can bargain collectively, and who is responsible when the pressure of a delivery clock ends in injury. The constitutional text, the doctrine of economic reality, and the experience of other jurisdictions together support a more ambitious settlement built around a presumption of employment, an intermediate protected category, and enforceable algorithmic due process. The coming year, with the High Court's ruling on repugnancy, the Supreme Court's continued supervision of the Union's implementation, and the notification of the contribution, will determine whether India's model becomes a real floor of rights or remains a register of workers without a ledger of entitlements.

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