

Social Security for Gig and Platform Workers in India: Statutory Promise, Governance Challenges, and Lessons from the BOCW Experience



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This article draws guidance from the Hon'ble Supreme Court's decision in *National Campaign Committee for Central Legislation on Construction Labour v. Union of India & Ors.*, (2018) 5 SCC 607, wherein the Court expressed concern over States, including Uttar Pradesh, failing to register construction workers, utilize welfare cess, and deliver benefits. The Court held that non-implementation of a welfare statute violates Articles 21, 38, and 39 of the Constitution. Against this backdrop, the article examines the *Code on Social Security, 2020*, focusing on gig workers, platform workers, and unorganized workers. It emphasizes that contributions under Sections 109 and 114 must be deployed transparently and effectively, ensuring that statutory social security benefits reach the intended workers (Gig-workers, Platform-workers and Unorganized-workers), and do not suffer the fate of non-implementation observed under prior welfare enactments like BOWC. The analysis herein underscores the imperative that the welfare schemes envisaged under Sections 109 and 114 of the Code are implemented in a timely, transparent, and worker-centric manner, so that the social security benefits contemplated by the legislature are not rendered illusory. The objective is to ensure that the statutory promise of social security under the Code is realised in substance and does not suffer the fate of non-implementation witnessed under earlier welfare enactments.

Legislative Background and Objective

Prior to the enactment of the Code on Social Security, 2020, principal welfare legislations such as the *Employees' Provident Funds and Miscellaneous Provisions Act, 1952* and the *Employees' State Insurance Act, 1948* were essentially employment-centric, operating strictly on the existence of a contract of service and formal identification of an employer-employee relationship. Gig workers and platform workers, whose employment status remained unidentified or unrecognised, were consequently excluded from the statutory framework.

In practice, the absence of registration and identity loading on the ESIC portal and/or EPFO portal resulted in such workers being denied any welfare or financial benefits,

notwithstanding their economic dependence on platform-based work. Being generally engaged under contracts for service, gig and platform workers remained outside the statutory social security net under the pre-Code regime.

With the enactment of the Code on Social Security, 2020, the Central Government has introduced a paradigm shift by statutorily recognising gig workers and platform workers and providing for their social security coverage. Under **Section 114**, aggregators are mandated to contribute towards social security funds, while **Section 113** requires gig and platform workers to be registered in order to avail such benefits.

However, the effective delivery of social security is contingent upon the timely framing and implementation of welfare schemes under **Section 109** of the Code. These schemes must be designed as worker-friendly and accessible mechanisms, free from excessive bureaucratic interference. Otherwise, the experience of welfare legislations such as the *Building and Other Construction Workers' Welfare Cess Act, 1996* demonstrates that mere statutory entitlement, without efficient administration, may result in denial of actual benefits to intended beneficiaries.

Therefore, with a view to extending welfare benefits to gig workers, platform workers, & unorganized-workers, and drawing lessons from the implementation experience of the Building and Other Construction Workers (BOCW) regime—particularly with respect to compliance mechanisms, benefit delivery, and administrative bottlenecks—the Code on Social Security, 2020 consolidates nine central labour welfare enactments and introduces a framework aimed at universal and portable social security. This framework expressly extends coverage to unorganized workers, gig workers, and platform workers, thereby marking a significant advancement in India's labour welfare jurisprudence.

Provisions for Gig Workers, Platform Workers, and Unorganized Workers under the Code on Social Security, 2020

The rapid expansion of the digital economy, app-based services, and flexible work arrangements has fundamentally transformed traditional employment relationships. Recognizing the growing segment of workers operating outside the conventional employer–employee framework, the Indian legislature, for the first time, accorded statutory recognition to gig workers and platform workers under the Code on Social Security, 2020 (hereinafter “the Code”). This marks a significant departure from the earlier labour law regime, which was largely confined to organized sector employment.

The Code seeks to extend social security protection to workers engaged in non-standard forms of work, while deliberately maintaining a distinction between such workers and regular employees.

Definition of Gig Worker – Section 2(35)

Section 2(35) defines a *gig worker* as:

“a person who performs work or participates in a work arrangement and earns from such activities outside of traditional employer–employee relationship.”

Key Elements as per writer view :

1. **Absence of employer–employee relationship** – Work is performed outside a traditional contract of service.
2. **Task-based or assignment-based engagement** – Typically short-term, flexible, or project-oriented.
3. **Earnings linked to output** – Remuneration is connected to completion of specific tasks rather than monthly wages.

Examples

- Ride-hailing drivers
- Food-delivery personnel
- E-commerce logistics partners
- App-based home-service providers
- Short-term engagement workers
- Loader/ Un-loaders

Definition of Platform Worker – Sections 2(60) and 2(61)

Section 2(60) defines *platform work* as:

“a work arrangement outside of a traditional employer–employee relationship in which organisations or individuals use an online platform to access other organisations or individuals to solve specific problems or to provide specific services or any such other activities may notified by the Central Government, in exchange for payment.”

Section 2(61) defines a *platform worker* as:

“a person engaged in or undertaking platform work.”

Essential Characteristics as per writer’s view :

1. **Digital mediation** – Engagement facilitated through an online platform or application.
2. **Algorithmic control** – Allocation of work, pricing, incentives, and ratings governed by digital systems.
3. **No direct employment contract** – Platforms characterise the relationship as one of independent contracting.

Examples

- Freelancers and independent consultants
- Content creators and digital professionals
- Short-term contractual service providers
- Events management work-force

Distinction between Gig Workers, Platform Workers & Regular Employees

Aspect	Gig Workers/Platform Workers	Regular Employees
Nature of Engagement	Informal	Formal
Contract Type	Contract for Service	Contract of Service
Appointment Letter	No	Yes
Payment	Per task / project	Monthly salary



Social Security Framework under the Code,2020

Enabling Provisions – Chapter IX

Chapter IX of the Code exclusively addresses social security for unorganized workers, gig workers, and platform workers.

Under **Section 109**, the Central Government is empowered to frame welfare schemes covering, inter alia:

- Life and disability cover
- Accident insurance
- Health and maternity benefits
- Old-age protection
- Education and skill upgradation
- Any other notified benefit

The State Government shall also frame suitable scheme

- Provident Fund
- Employment injury benefits
- Housing
- Educational Scheme for children

Registration and Identification

Under **Section 113**, gig and platform workers must be registered to avail benefits, subject to:

- Minimum age of sixteen years
- Self-declaration
- Aadhaar-based identification (subject to law)

Registration enables the creation of a national database for targeted delivery and portability of benefits.

Funding Mechanism

The Code introduces a tripartite funding structure:

1. Central and State Government contributions
2. Aggregators' contribution under **Section 114**, based on a prescribed % not exceeding 2% but not less than 1 % of the annual turnover.
3. Worker contribution, which may be voluntary or scheme specific.

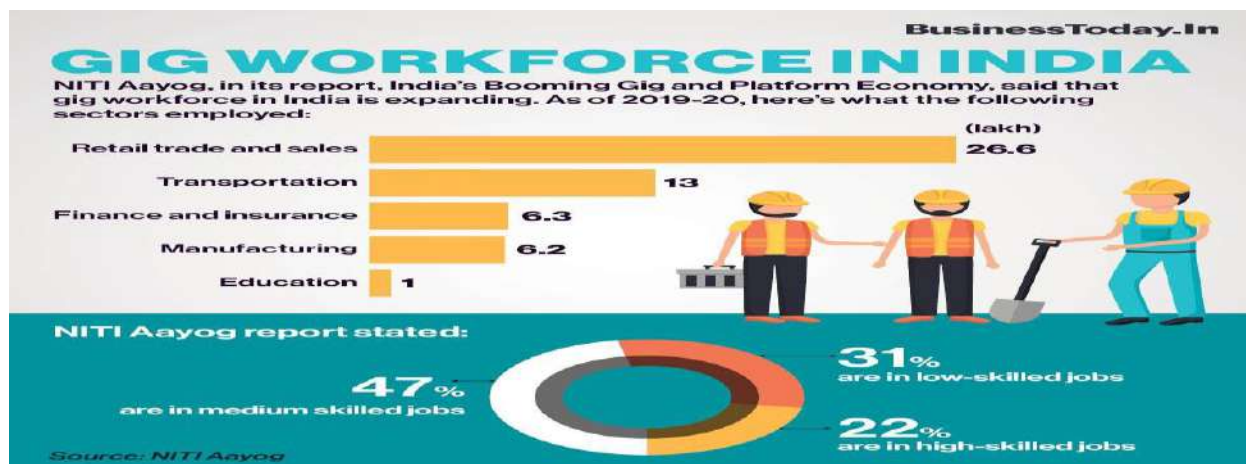
Nature of Benefits

Although largely enabling in nature, potential benefits include:

- Accident and life insurance
- Disability benefits
- Health and maternity benefits
- Old-age pension or provident-type benefits
- Skill development and training

Importantly, these benefits are status neutral and do not convert gig or platform workers into employees.

Indian Cultural and Socio-Economic Perspective on Gig and Platform Work



India's approach to gig and platform workers under the Code on Social Security, 2020 cannot be understood as being confined solely to workers engaged by e-commerce or app-based industries. The statutory framework is equally intended to cover gig

workers, platform workers, and unorganized workers engaged by conventional manufacturing and service establishments, including loaders and un-loaders, street workers, and short-term contractual service providers which is depicted above diagram.

Given their indispensable contribution to the functioning of the economy and daily life of Indian citizens, the provision of welfare and social security to these categories of workers assumes paramount importance and lies at the heart of the Indian welfare-state approach embodied in the Code.

The Code's welfare-centric and status-neutral model resonates with India's constitutional ethos of a social welfare State under Articles 38, 39, 41, and 43 of the Constitution. Rather than forcibly reclassifying gig workers as employees—which could disrupt livelihoods and platform ecosystems—the Indian legislature has chosen a gradualist approach, prioritizing social security over rigid legal categorisation. This reflects a culturally embedded preference for inclusive protection over adversarial regulation.

At the same time, Indian cultural realities expose certain limitations. The absence of enforceable minimum wages, income security, or grievance redressal mechanisms may perpetuate vulnerabilities, particularly where algorithmic control replaces human supervision. In a society where social security is often the primary shield against poverty, delays in scheme notification and uneven State capacity risk diluting the Code's transformative promise.

Viewed through the Indian lens, gig and platform workers are not merely economic actors but part of the broader "**Shram Shakti**" of the nation. The Code on Social Security, 2020 symbolises an attempt to harmonise ancient notions of welfare and community responsibility with modern digital labour markets. Its success will depend on whether implementation mechanisms can translate statutory intent into lived social security for millions operating at the margins of formal employment.

Conclusion

The recognition of gig workers under Section 2(35) and platform workers under Section 2(60) of the Code on Social Security, 2020 marks a watershed moment in Indian labour jurisprudence. From an Indian cultural and socio-economic perspective, the Code represents a conscious effort to extend welfare protections to a workforce that has historically remained informal yet indispensable.

By aligning digital-age labour arrangements with India's constitutional vision of social justice and welfare, the Code has the potential to become a foundational framework for humane and inclusive labour regulation. Its ultimate success, however, will be measured not by statutory definitions alone, but by its ability to provide real, accessible, and dignified social security to gig and platform workers who form the backbone of India's evolving economy.