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ALGORITHMIC EMPLOYERS AND THE LEGAL VACCUM: A CASE FOR RECLASSIFYING GIG WORKERS IN INDIA

~ Roshni Kumari

ABSTRACT

The rapid expansion of India' platform economy has transformed the nature of employment and raised serious concerns regarding labour protection for gig workers. Digital platforms such as ride- hailing and food delivery applications exercise extensive control through algorithmic systems while continuing to classify workers as independent contractors. This classification excludes workers from labour rights relating to minimum wages, social security, occupational safety, and protection against arbitrary termination. Recent developments highlight the growing urgency of this issue. The Code on Social Security, 2020 introduced statutory recognition of gig and platform workers, yet its welfare provisions remain largely unenforced. At the same time, state legislations such as the Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023 and the Karnataka Platform Based Gig Workers (Social Security and Welfare) Act, 2025 reflect increasing acknowledgement of algorithmic control and the need for worker welfare protections. Furthermore, judicial developments in India and abroad indicate a gradual shift towards examining the real nature of employment relationships rather than relying solely on contractual labels. This research critically examines the legal vacuum surrounding gig workers in India and analyses whether existing labour laws are capable of addressing the realities of algorithmic employment. Through statutory interpretation, case law analysis, and comparative perspectives, the study evaluates the need for reclassification of gig workers within the framework of labour law protections. The findings aim to contribute towards a balanced legal framework that protects worker rights while supporting technological and economic innovation.

INTRODUCTION

The organisation of work is the most fundamental concern of legal order. The classification of those who work and to whom legal protection is extended shapes not only individual livelihoods but a broader architecture of industrial relations and social security This has not been addressed by the Indian labour law. This paradox lies at the heart of one of the most consequential legal questions of the present decade: does the labour law in India adequately classify and protect the workers who power the platform economy? This paper argues that this issue has not been addressed and that the failure is structural, not incidental. The meaning of these *'employee'* and *'independent contractor'* was inherited from British Common Law, designed for the factory age, which has been embedded in the labour statute of India. It was designed not for the economy in which the employer is the algorithm, the workplace is the mobile phone and the employment contract has been replaced by a terms-of-service agreement.

The numbers demand attention. It is evident that the gig workforce will surpass the total formal employment in the manufacturing sector in India.

Indian labour legislation was architected for a tripartite world: the state, the employer and the worker. Platform enterprises have introduced a fourth actor – the algorithm – and used it to disrupt the employer-worker that every protective statute assumes. The platform does not hire the worker; it *'onboards'* them. It does not pay wages; it processes *'earnings'*. It does not supervise; it *'tracks'* and *'rates'*. It does not dismiss; it *'deactivates'*. The language has changed. The power relationship has not.

Furthermore, while the *Labour codes of 2019-20* have been discussed as a modernisation of Labour law, their treatment of platform workers has been examined largely in descriptive rather than critical terms. *The Code on Social Security, 2020* defines *'platform worker'* and *'gig worker'* for the first time in Indian statutory history, which governs their welfare, has not been notified into force. The gap between statutory recognition and enforceable protection has not been subjected to the critical examination.

1. THE GIG ECONOMY AND CRISIS OF CLASSIFICATION

1.1 The Scale and Speed of the Gig Economy in India

The gig economy is not a marginal feature of Labour market. It is rapidly becoming one of its defining structural characteristics[1]. According to *NITI Aayog report* titled *"India's Booming Gig and Platform Economy"* released in June 2022, there were an estimated 7.73 million platform workers in India in 2020-21[2]. This workforce is projected to increase to 23.5 million by 2029-30. This will result in increase in gig workers which will constitute 6.7 percent of non-agricultural force by 2030 in India. *The Ministry of Labour and Employment* projects with growth in digital platform, there would be potential expansion to 62 million by 2047[3].

According to the report *DemandSage (2025)*, India currently leads the world in gig economy growth, with a 21 percent compound annual growth rate (CAGR)[4]. It is the fastest growing gig economy in the world. *The Economic Survey of India 2025-26*, tabled in Parliament in January 2026, updated this figure: India's gig workforce grew by 55 percent in four years, reaching approximately 12 million workers by FY 2024-25[5].

This growth is distributed across sectors reflecting the breadth of platform penetration into the service economy.

1.2 The Employment Relationship in Dispute: Employee, Contractor or Neither?

Platforms describe their workers as *'independent entrepreneurs', 'delivery partners'*, or *'service providers'*. Each level is chosen not to describe an economic reality but to defeat a legal consequence. It places the workers outside the protective scope of major labour statute[6].

The Code on Social Security, 2020 was the first Indian Statute to name the problem. *Section 2(35)* defines a *'gig worker'* as a person who performs work or participates in a work

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[1] Rupali Kumari & Amitha Juliet Lobo, Growth and forecast of the gig economy in India: A secondary data analysis (2026), available at https://doi.org/10.30574/wjarr.2026.30.1.1053 .

[2] NITI Aayog, India's Booming Gig and Platform Economy: Perspectives and Recommendations on the Future of Work 45 (2022).

[3] Shiva Rajora, Gig workforce in India to grow to 62 mn by 2047: Labour ministry study , Business Standard (June 10 2025 , 12:49 AM) , https://www.business-standard.com/economy/news/gig-workforce-to-grow-to-62-million-by-2047-labour-ministry-study-125060901083_1.html

[4] Naveen Kumar, Gig Economy Statistics (2026): Growth & Market Size, Demand Sage, (Dec. 23,2005), https://www.demandsage.com/gig-economy-statistics/

[5] Karan Dhar, India has 12 million gig workers, 2% of total workforce: Economic Survey, Business Today (Jan 29, 2026 ,1:31 PM) , https://www.businesstoday.in/union-budget/story/india-has-12-million-gig-workers-2-of-total-workforce-economic-survey-513429-2026-01-29 .

[6] Vishwanathan D., *Social Security for Gig Workers: Promises and Pitfalls of Social Security Code, 2020* (Apr. 4, 2026) (unpublished manuscript).

arrangement and earns from such activities outside of traditional employer-employee relationship[7]. *Section 2(61)* defines a *'platform worker'* means a person engaged in or undertaking platform work[8]. They are not enforceable solutions: *Chapter IX of the Code on Social Security,2020*, which governs platform worker welfare, has not been notified into force as of March 2026. *Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023*[9] focusses on registration of gig workforce and creation of institutional mechanism- a Board, a fund, a cess mechanism and a digital tracking system[10]. *Karnataka Platform Based Gig Workers (Social Security and Welfare) Act, 2025*[11] surpasses the former as it mandates a 1% - 5% transaction-based welfare fee for aggregators and 14-day notice for termination. These does not reclassify workers as employees or confers minimum wage rights.

The core definitional problem is that Indian Labour law operates on a binary: you are either an employee (entitled to full statutory protection) or an independent contractor (entitled to none). Platform work, characterised by comprehensive control, economic independence and nominal contractual independence, fits neither category as currently defined[12].

1.3 Algorithmic Management and the Invisible Employer

The platform exercises comprehensive control over their workers through software.

Six mechanisms have been documented across the platform economy. ***First***, surge pricing and commission-rate setting give platforms unilateral control over what workers earn per task, with no scope for negotiation[13]. ***Second***, GPS tracking and real-time task constitute continuous supervision that exceeds what any manager could achieve[14]. ***Third***, star rating systems – in which customer evaluations determine a worker's access tier and earning prospects – function

[7] The Code on Social Security,2020, § 2(35), No. 36, Acts of Parliament, 2020 (India).
[8] The Code on Social Security,2020, § 2(61), No. 36, Acts of Parliament, 2020 (India).
[9] The Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023, No. 31, Acts of Rajasthan State Legislature, 2023 (India).
[10] Bishen Jeswant & Luv Saggi , Rajasthan passes Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023 , cyril amarchand mangaldas ahead of the curve (August 30, 2023), https://corporate.cyrilamarchandblogs.com/2023/08/rajasthan-passes-rajasthan-platform-based-gig-workers-registration-and-welfare-act-2023/
[11] The Karnataka Platform Based Gig Workers (Social Security and Welfare) Act, 2025, No. 31, Acts of Karnataka State Legislature, 2025 (India).
[12] Pooja Kumari, The Gig Economy's Legal Grey Area: Re-Interpreting 'Workman' And 'Employee' For Platform-Based Labour in India, Volume 10 Issue 11, INT'L J. SCI. DEV. & RSCH, 662, 663-664 (2025). (herein after as Pooja Kumari)
[13] See generally, Min Kyung Lee and others, 'Working with Machines: The Impact of Algorithmic and Data-Driven Management on Human Workers' (CHI '15: Proceedings of the 33rd Annual ACM Conference on Human Factors in Computing Systems, 2015) 1603.
[14] Jeremias Adams-Prassl, Humans as a Service: The Promise and Perils of Work in the Gig Economy (OUP 2018) 71-75.

as performance appraisal without procedural fairness[15]. ***Fourth***, account deactivation, triggered algorithmically by low ratings or low acceptance rates, is the functional equivalent of summary dismissal without notice, reason, or right to appeal[16]. ***Fifth***, acceptance-rate requirements penalise workers for declining tasks, directly eroding the *'independence'* that nominally justifies the contractor classification[17]. ***Sixth***, from 2022, major platforms introduced fixed work-slot booking systems that require workers to pre-commit to shifts, with demotion penalties for non-compliance, a development documented in *The Fair work India Ratings 2024* that fundamentally undermines any remaining claim to genuine flexibility[18].

1.4 The Statutory Protection Gap: A Comprehensive Exclusive

The legal consequences of the independent contractor classification are not abstract. They produce a systemic, total exclusion of platform workers from the entire architecture of Indian labour protection.

The exclusions are categorical. A platform delivery partner receives no minimum wage guarantee under the *Minimum Wages Act, 1948*, because this act applies to scheduled employments within a defined employer-employee relationship[19]. There is no *employees' Provident Fund* contribution under *The Employees' Provident Funds and Miscellaneous Provisions Act, 1952.* There is no *employees' state insurance* coverage under The Employees' State Insurance Act, 1948 and gratuity under the *Payment of Gratuity Act, 1972*. There is no maternity benefit under the *Industrial Disputes Act, 1947* and occupational safety standard under the *Factories Act, 1948* or the *Occupational Safety, Health and Working Conditions Code, 2020*.

The Fair work India Ratings (2024) ratings quantify what this statutory gap means in practice. Among eleven platforms, no platform scored above 6/10. Ola, Porter and Uber scored zero. There is no platform which has recognised any collective worker body. The report documented the shift to fixed-lot systems from 2022, where workers risk demotion to lower-paying slots or

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[15] Pooja Kumari, supra note 12, at 666-667.
[16] Fairwork India, Fairwork India Ratings 2022: Labour Standards in the Platform Economy, https://fair.work/wp-content/uploads/sites/17/2022/12/221223_fairwork_india-report-2022_RZ_red_edits_10.pdf, 20-22. (Deactivation without due process is a key area where platforms score poorly) (herein after as Fairwork India)
[17] Alexandrea J. Ravenelle, Hustle and Gig: Struggling and Surviving in the Sharing Economy (University of California Press 2019) 23-28.
[18] Fairwork India, supra note 16, at 6- 7.
[19] The Minimum Wages Act, 1948, § 3(1)(a), No. 11, Acts of Parliament, 1948 (India).

non-compliance – a direct contradiction of the *‘flexibility’* rational that platforms invoke to justify the contractor classification[20].

[20] Balaji Parthasarathy et al., Fairwork India Ratings 2024: Labour Standards in the Platform Economy (2024), https://fair.work/wp-content/uploads/sites/17/2024/10/Fairwork_India_Report_2024.pdf

2. THE STATUTORY FRAMEWORK: WHERE GIG WORKERS FALL THROUGH

Indian labour legislation has been described as the most comprehensive in Asia. It covers wages, conditions of service, industrial relations, social security, occupational safety and the settlement of disputes through a network of central statutes and state rules.

2.1 The Architecture of Exclusion: A Legislative Timeline

The statutes that govern Indian labour law were not designed to exclude gig workers. They were designed for a world in which there was no gig economy. *The Industrial Disputes Act* was enacted in 1947 and *the Factories Act in 1948*. The *Employees' Provident Funds and Miscellaneous Provisions Act, 1952* and the *Employees' State Insurance Act in 1948*. These four foundational statutes predate not only the internet but the personal computer. Their categories include employer and workman. Factory, establishment, wages were drawn from the vocabulary of industrial capitalism: coal mines, textile mills and railway workshops. Platform work, which requires none of these things, fits none of these categories.

The *Four Labour Codes of 2019-2020* were attempt of parliament to consolidate, modernise and extend coverage. They replaced 29 central labour statutes with four omnibus codes: *the Code on Wages, 2019*[21]; *the Industrial Relations Code*, 2020[22]; *the Occupational Safety, Health and Working Conditions (OSHWC) Code, 2020*[23]; *the Code on Social Security, 2020*[24]. These Codes were passed by Parliament but lay dormant for five years, awaiting state rules and central notifications. On 21 November 2025, the Ministry of Labour and Employment notified all Four Labour Codes in the Official Gazette[25]. *The Industrious Relations Code, 2020* and *the Occupation Safety, Health and Working Conditions (OSHWC) Code, 2020* were notified in full. *The Code on Social Security, 2020* and *the Code on Wages, 2019* were notified partially.

The critical finding is that the three statutes that address wages, employment protection and occupational safety – *the Code on Wages, 2019; the Industrial Relations Code*, 2020; *the Occupational Safety, Health and Working Conditions (OSHWC) Code, 2020*; *the Code on Social Security, 2020* - do not extend their core protections to gig and platform workers.

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[21] The Code on Wages, 2019, No. 29, Acts of Parliament, 2019 (India).
[22] The Industrial Relations Code, 2020, No. 35, Acts of Parliament, 2020 (India).
[23] The Occupational Safety, Health and Working Conditions Code, 2020, No. 37, Acts of Parliament, 2020 (India).
[24] The Code on Social Security, 2020, No. 36, Acts of Parliament, 2020 (India).
[25] Press Information Bureau, *Government Makes the Four Labour Codes effective to Simplify and Streamline Labour Laws*, Ministry of Labour & Employment (Nov. 21, 2025, 3:00 PM), https://www.pib.gov.in/PressReleseDetailm.aspx?PRID=2192463.

2.2 The Industrial Disputes Act, 1947: The "Workman" Test and Its Failure

The Industrial Disputes Act, 1947 is the primary vehicle through which workers seek redress for wrongful dismissal, raise wage disputes and access the machinery of industrial adjudication. The protective scope is defined in *Section 2(s)*[26] which defines *'workman'*.

The definition contains three operative elements: the person must be *(a) employed (b) in an industry (c) for hire or reward,* to do qualifying work. Platforms dispute all three elements in relation to their workers. ***Firstly***, they deny that workers are *'employed'* by them at all, insisting on the *'independent contractor'* characterisation. ***Secondly***, they deny that they are an *'industry'* in the sense *the Industrial Disputes Act, 1947* uses the term, characterising themselves as technology intermediaries rather than service providers. ***Thirdly***, they deny that *'per-task payments'* constitute *'hire or reward'* in the employment sense, characterising them as *'fees for services'* rendered by independent businesses[27].

The judgement by the Supreme Court in *Bharti Airtel Ltd. v. A.S. Raghavendra* clarified the test for distinguishing workman from non-workman status, holding that functional role and organisational hierarchy and not merely the formal power to hire or dismiss, determines whether an individual is a workman[28]. This functional approach, if applied to gig workers, would support workman status: delivery drivers and ride-hailing operators perform '*manual'* and '*operational'* work that is the core business of the platform, under the conditions of comprehensive algorithmic control[29].

However, in *Indian Federation of App-Based Transport Workers (IFAT) and others v. Union of India and Others* petition– in which Indian Federation of App-Based Transport Workers argues for recognition as unorganised workers under the *Unorganised Workers' Social Security Act, 2008* – has chosen a more cautious strategy by avoiding the classification argument from the *Industrial Disputes Act, 1947*[30].

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[26] The Industrial Relations Code, 2020, § 2(s), No. 35, Acts of Parliament, 2020 (India).
[27] Tabassum Jahan, Definition & Concept of Workman, Law's Forum (April 29, 2025), https://lawsforum.com/du-llb/semester-4/labour-law-semester-4/definition-concept-of-workman/ .
[28] *Bharti Airtel Ltd. v. A.S. Raghavendra, (2024) 6 SCC 418.*
[29] Nipasha Mahanta, Nishanth Ravindran, Sayantani Saha and Nohid Nooreyezdan, The Supreme Court recently clarified the meaning of a 'workman', DLA Piper GENIE (18 October 2024), https://knowledge.dlapiper.com/dlapiperknowledge/globalemploymentlatestdevelopments/2024/The-Supreme-Court-recently-clarified-the-meaning-of-a-workman .
[30] Sukanya Mitra, Case analysis : Indian Federation of App-Based Transport Workers (IFAT) vs. Union of India and Others, Ipleaders (Dec. 17, 2021) , https://blog.ipleaders.in/case-analysis-indian-federation-of-app-based-transport-workers-ifat-vs-union-of-india-and-others/ .

The Industrial Disputes Act, 1947 will be replaced by *The Industrial Relations Code, 2020* upon full implementation. *The Industrial Relations Code, 2020* substitutes the term *'worker'* for *'workman'* and raises the supervisory wage exclusion from ₹10,000 to ₹18,000 per month. While this marginally broadens the definition, it does not address the fundamental problem: the Code neither defines gig or platform workers as workers nor provides for employment protection, the right to raise industrial disputes and protection against unfair dismissal. Therefore, these are inapplicable on the gig workforce[31].

2.3 The Factories Act, 1948: The Premises Requirement that bars Gig Workers

The Factories Act, 1948 governs working conditions – health, safety, working hours, welfare, for workers in industrial establishments. It is applicable on two definitions: *'factory'* under *Section 2(m)* and *'worker'* under *Section 2(l)*.

The Factories Act, 1948 defines *'factory'* in *Section 2(m)*[32].

The Factories Act, 1948 defines *'worker'* in *Section 2(l)*[33].

Three requirements arise from the definitions: the work must occur on identifiable premises; a manufacturing process must be carried on at those premises; and the worker must be employed in that manufacturing process or activities ancillary to it. A platform gig worker fails all three[34].

The Factories Act, 1948 will be replaced by *the Occupational Safety, Health and Working Conditions (OSHWC) Code, 2020. The Occupational Safety, Health and Working Conditions (OSHWC) Code, 2020* redefines *'factory'* as premises with 20 workers using electric power (or 40 without) and broadens *'establishment'* to cover any place where industry, trade, business or occupation is carried out with 10 or more workers. It does not capture gig workers as gig workers do not work in or at a single establishment: they work across public and private spaces simultaneously, with dozens of different premises serving as temporary work locations on any given day. The premises-based model of occupational safety regulation has no tradition in the world of platform work[35].

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[31] Omeed Askari-Behbahani, India's New Labor Codes: 9 Steps Multinational Employers Can Take Now, Fisher Phillips (Dec. 11, 2025), https://www.fisherphillips.com/en/insights/insights/indias-new-labor-codes .
[32] The Factories Act, 1948, § 2(m), No. 63, Acts of Parliament,1948 (India).
[33] The Factories Act, 1948, § 2(l), No. 63, Acts of Parliament,1948 (India).
[34] Saranya A.T, Gig Workers and the Labour Laws: The Struggle Between Flexibility and Protection, Volume IV Issue VI, Ind. J. Int. Res. Law, 702, 704 (2024).
[35] Anand Gopalan & Swathika Rathnachalam, Do the New Labour Codes Make Working Hours More Arduous? LiveLaw.in (Mar. 28, 2026, 3:00 PM), https://www.livelaw.in/articles/new-labour-codes-working-hours-528052?fromIpLogin=62646.405911097725 .

2.4 The Four Labour Codes (2019-20): Recognition Without Protection

The consolidation of 29 central labour statutes into Four Labour Codes between 2019 and 2020 was most significant labour law reform. For gig workers, the reform contains a genuine landmark: *the Code on Social Security, 2020* defines *'gig worker'* under *Section 2(35)*[36] and *'platform worker'* under *Section 2(61)*[37] and *'aggregator'* under *Section 2(2)*[38]. These definitions gave the gig workforce a statutory identity. They did not give them statutory rights.

The critical structural gap is visible when the four Codes are mapped against the protections a gig worker would need. *The Code on Wages, 2019*, which consolidates *the Minimum Wages Act, 1948* and *the Payment of Wages Act, 1936*, does not extend minimum wage protection to gig workers. *The Industrial Relations Code, 2020*, which replaces *the Industrial Disputes Act, 1948*, does not recognise gig workers as workers for purposes of raising industrial disputes. *The Occupational Safety, Health and Working Conditions (OSHWC) Code, 2020* does not occupational safety obligations on aggregators in respect of their gig workforce. Only *the Code on Social Security, 2020* addresses gig workers directly and its provisions remain unimplemented[39].

The gap is precise and consequential. A gig worker in India remains without a minimum wage guarantee, without protection against wrongful deactivation, without occupational safety standards and without any right to raise a dispute about any of these matters in a labour court or tribunal.

2.5 The Code on Social Security, 2020: Enabling Provision or Enforceable Right?

The Code on Social Security, 2020 is the most significant piece of legislation.

Chapter IX of the Code – titled *'Social Security for Unorganised Workers, Gig Workers and Platform Workers'* – empowers the Central and State Governments to frame welfare schemes providing life and disability cover, accident insurance, health and maternity benefits, old age protection, education and other welfare measures. *Section 114* empowers the Central Government to notify schemes[40]. *Section 109* empowers State Governments to do the same[41].

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[36] The Code on Social Security, 2020, § 2(35), No. 36, Acts of Parliament, 2020 (India).
[37] The Code on Social Security, 2020, § 2(61), No. 36, Acts of Parliament, 2020 (India).
[38] The Code on Social Security, 2020, § 2(2), No. 36, Acts of Parliament, 2020 (India).
[39] Alok Prasanna Kumar, Code on Wages and the Gig Economy, Economic & Political Weekly (Aug. 24, 2019), https://www.epw.in/journal/2019/34/law-and-society/code-wages-and-gig-economy.html.
[40] The Code on Social Security, 2020, § 114, No. 36, Acts of Parliament, 2020 (India).
[41] The Code on Social Security, 2020, § 109, No. 36, Acts of Parliament, 2020 (India).

The *National Social Security Board*, constituted under the Code, may recommend and monitor such schemes[42].

The word that carries the entire legal weight of this provision is *'may'*. The Code does not mandate any scheme. It does not guarantee any benefit or entitlement.

The Ministry of Labour and Employment released draft rules on 30 December 2025 – a day before gig workers went on a flash strike demanding better pay. Those draft rules prescribe eligibility criteria (at least 90 days with a single aggregator or 120 days across multiple aggregators in the preceding financial year), a digital identity card and a centralised portal. Benefits cease at 60. But the draft rules themselves acknowledge that benefits *'will become operational once the Central Government notifies the appropriate rules dealing with these specific themes'* – rules that have not been notified[43].

[42] The Code on Social Security, 2020, § 6, No. 36, Acts of Parliament, 2020 (India).

[43] A.M. Jigeesh, Centre pre-publishes draft Rules for four Labour Codes, The Hindu (Dec. 31, 2025 10:39 PM), https://www.thehindu.com/news/national/centre-pre-publishes-draft-rules-for-four-labour-codes/article70458113.ece.

3. THE CONTROL TEST: CAN LAW KEEP UP WITH THE ALGORITHM?

The control test is applied to algorithmic management and supports employment status for gig workers under Indian Jurisprudence.

3.1 The Evolution of the Control Test: From Master to Algorithm

The control in law began as a simple inquiry and has evolved into a sophisticated, muti-factor economic-reality framework that is capable of capturing the algorithmic employment relationship[44].

Dharangadhra Chemical Works v. State of Saurashtra (1956): The Supreme Court held that the existence of an employer-employee relationship depends primarily on whether the alleged employer has the right to direct not merely what work shall be done but how shall it be done. This *'manner and method'* control test is the baseline from which subsequent doctrine developed[45].

Silver Jubilee Tailoring House v. Chief Inspector of Shops (1974): The Supreme Court acknowledged that pure control becomes difficult to apply where workers have specialist skills. It supplemented the control test with the resignation test: is the worker an integral part of the employer's organisation? It introduced the right to reject non-conforming work as an indicator of control. The multi-factor framework was born. This case remains the leading authority for gig workers classification analysis in Indian courts[46].

Hussain Bhai v. Alath Factory Thezhilali Union (1978): The economic reality test - Justice V.R. Krishna Iyer: *"Where a worker or group of workers labours produce goods and services and these goods or services are not for the business of another, that other is, in fact, the employer."* The presence of an intermediate contractor is irrelevant if the economic reality is that the principal benefits from and controls the labour. This formulation anticipates the platform economy with striking precision[47].

[44] Emma McDaid, Paul Andon, Clinton Free, Algorithmic management and the politics of demand: Control and resistance at Uber, Accounting, Organizations and Society, Volume 109, 2023,101465, ISSN 0361-3682, https://doi.org/10.1016/j.aos.2023.101465.
[45] *Dharangadhara Chemical Works Ltd. v. State of Saurashtra (1956) 2 SCC 636.*
[46] *Silver Jubilee Tailoring House v. Chief Inspector of Shops & Establishments, (1974) 3 SCC 498.*
[47] *Hussainbhai v. Alath Factory Thezhilali Union, (1978) 4 SCC 257.*

Indian Overseas Bank v. Workmen (2006): The Supreme Court held that where contractors are substantially responsible for the main and sole business, they will be treated as workers of the principal employer[48].

UP Cooperative Bank Ltd. v. Workers (2025): The Supreme Court held that determining employment status is a *'mixed question of fact and law',* endorsed the multi-factor test as the governing framework, and elevated contractual documentation as significant – though not determinative[49].

This evolution is essential to be understood before applying it to platform work.

3.2 Applying the Multi-Factor Test to Platform Workers

The Supreme Court decision confirmed six factors that courts must weigh collectively: power to hire and dismiss; control over the manner of work; payment of wages; ownership of tools; integration into the employer's business; and chance of profit or risk of loss. Appling each factor to a delivery partner or ride-hailing driver produces a striking result: five of the six factors point towards employment, one is contested, and none definitively support the independent contractor characterisation that platforms insist upon[50].

On power to hire and dismiss: platforms control onboarding and account deactivation entirely. On control over manner of work: the algorithmic management analysis demonstrates this is comprehensive and continuous. On payment of wages: per-task rates are set unilaterally by the platform and cannot be negotiated. On ownership of tools: workers own vehicles and phones – this is the one factor that formally favours independence. On integration into business: Platform is a delivery business; the delivery partner delivers; she performs the core business. On chance of profit: no entrepreneurial upside exists – the platform controls all variables[51].

3.3 Algorithmic Management as Employer Control: Six Mechanisms

Each mechanism has a precise analogue in traditional HRM functions that employment law has always associated with the employer role. The algorithm has not replaced the employer –

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[48] *Indian Overseas Bank v. Workmen, (2006) 3 SCC 729.*

[49] *UP Cooperative Bank Ltd. v. Workers, (2025) 5 SCC 420: 2025 SCC OnLine SC 698.*

[50] Reetika Gupta, Distinguishing Employees and Independent Contractors: Factors Considered by Courts in India, Aristo Legal(Aug 10, 2023) https://www.aristolegal.co.in/post/distinguishing-employees-and-independent-contractors-factors-considered-by-courts-in-india .

[51] Adekoya, Olatunji & Mordi, Chima & Hakeem, Ajonbadi & Chen, Weifeng. (2023). Implications of algorithmic management on careers and employment relationships in the gig economy – a developing country perspective. Information Technology & People. 38. 10.1108/ITP-01-2023-0064.

it has automated the employer's functions while the platform claims the legal absolution or the contractor label.

Surge pricing and commission-rate setting constitute wage-setting power exercised unilaterally by the platform. GPS tracking and real-time task allocation constitute supervision that exceeds what any human manager could achieve. The star rating system – where customer evaluations determine a worker's tier and platform access – functions as performance appraisal without procedural safeguards. Account deactivation, triggered algorithmically by low ratings or acceptance rates, is dismissal. Acceptance-rate requirements penalise task refusal, eroding the *'freedom to choose engagements'* that defines independent contracting. Fixed slot booking from 2022 requires workers to pre-commit to shifts, eliminating residual scheduling flexibility[52].

Section 17 of *the Karnataka Platform- Based Gig Workers (Social Security and Welfare) Act, 2025* is the first statute to directly engage this problem: it requires aggregators to establish a mechanism through which workers may seek information about the automated monitoring and decision-making systems that affect them. This is a statutory acknowledgement that algorithmic management mechanism are matters of worker right, not platform discretion[53].

3.4 Legislative Recognition of Algorithmic Control

The Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023 and *the Karnataka Platform Based Gig Workers (Social Security and Welfare) Act, 2025* are expressions of state level legislation that has begun to accept the proposition that platform-algorithmic control is employer-equivalent control that generates legal obligations.

Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023

This act was enacted on 24 July, 2023. This is the first gig worker legislation in India. It addresses algorithmic control. *Section 18* of the act mandates the *Central Transaction Information and Management System (CTIMS)*, which records every payment to gig workers and every transaction on which welfare cess is collected[54]. This financial structure is only coherent on one premise: that the platform exercises sufficient control over the worker's economic life to generate welfare obligations. A technology intermediary with no control over

[52] *Id.* at 11.
[53] The Karnataka Platform- Based Gig Workers (Social Security and Welfare) Act, 2025, § 17, No. 31, Acts of Parliament, 2025 (India).
[54] The Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023, § 18, No. 29, Acts of Parliament, 2023 (India).

its workforce would have no basis to be subjected to a per-transaction welfare levy. Therefore, *the Central Transaction Information and Management System (CTIMS)* acknowledges that aggregator is the employer[55].

The act has not been notified.

Karnataka Platform Based Gig Workers (Social Security and Welfare) Act, 2025

This act was notified on 12 September, 2025 and started to operate from 19 November 2025. *Section 13(1)* of the act requires aggregators to establish a mechanism through which gig workers can seek information about the automated monitoring and decision-making systemsthat govern their work. This is a statutory right through which there is acknowledgement that automated systems exercise control over workers in ways that require accountability[56].

Section 14(2) of the act requires 14 days' written notice before account deactivation – except in cases involving bodily harm. The deactivation is coherent when it is treated as quasi-termination, that is, if the platform-worker relationship is treated as employer-employee relationship to attract procedural protections that the law ordinarily reserves for employment relationships[57].

Section 18(1) of the act requires each aggregator to designate a human point of contact for workers queries. This directly acknowledges that algorithmic management systems require human accountability. This legislature confirmation points out that the algorithm is the employer, and that the employers must be answerable to those they govern[58].

3.5 The Limits of the Judicial Approach and the Case for Legislative Reform

The first limit is the recalibration in *Joint Secretary, CBSE & Anr. v. Raj Kumar Mishra & Others.* The judgement of Supreme Court has shifted the decisive advantage towards platforms by elevating contractual documentation above the functional control benchmark. The platforms require gig workers to sign terms-of-service agreements that disclaim any employment

[55] Estha Rathi, Rajasthan's Gig Workers' Legislation: Paving the Way for Transformation? IndiaCorpLaw (September 4, 2023), https://indiacorplaw.in/2023/09/04/rajasthans-gig-workers-legislation-paving-the-way-for-transformation/ .
[56] The Karnataka Platform- Based Gig Workers (Social Security and Welfare) Act, 2025, § 13(1), No. 31, Acts of Parliament, 2025 (India).
[57] The Karnataka Platform- Based Gig Workers (Social Security and Welfare) Act, 2025, § 14(2), No. 31, Acts of Parliament, 2025 (India).
[58] The Karnataka Platform- Based Gig Workers (Social Security and Welfare) Act, 2025, § 18(1), No. 31, Acts of Parliament, 2025 (India).

relationship. This judgement has stipulated that these documents would be *'decisive'*. This judgement has only addressed conventional contract labour[59].

The second limit is institutional. Indian Labour Courts and Industrial Tribunals apply defined statutory categories to established facts and cannot award remedies that the statute does not authorise. If the statute definition of *'workman'* does not cover gig workers, the tribunal cannot grant relief. *The Indian Federation of App-Based Transport Workers (IFAT) & others v. Union of India & Others* avoided the classification argument from *the Industrial Disputes Act, 1947*[60].

The third limit is political and structural. Platform enterprises are among the best funded political actors in technology sector. This is the cautionary reminder of platform enterprises capacity and willingness to resist classification reform through political means.

The legislative amendment can the achieve the scale, certainty and durability that comprehensive gig worker protection requires[61].

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[59] *CBSE v. Raj Kumar Mishra, 2025 SCC OnLine SC 2048.*
[60] The Factories Act, 1948, § 2(l), No. 63, Acts of Parliament,1948 (India).
[61] Karan Sangani, Reconceptualising Labour Regulations for Workers in the Gig Economy, Vol. IX Issue I, NLIU L. Rev., 92, 109-113 (2022).

4. COMPARATIVE JURISPRUDENCE: GLOBAL RESPONSE TO PLATFORM WORK

The gig economy operates on architecturally identical platform structures across all jurisdictions. The legal responses to this common architecture vary enormously – that variation is instructive.

4.1 Global Responses to Platform Work: An overview

The question of classification and protection of platform workers has generated legislative and judicial reform between 2019 and 2025. More than sixty jurisdictions have enacted or introduced legislation, judicial decisions and administrative determinations addressing platform worker classification[62]. The responses cluster into three broad models: the judicial reclassification model (epitomised by *Uber v. Aslam*); the legislative presumption model (epitomised by *Spain's Rider's Law* and the *EU Directive*); and the political exemption model (epitomised by *California Proposition 22*). Each model offers a distinct learning for India.

4.2 United Kingdom: The Three-Category Model and Uber v. Aslam

The response of UK to platform work is important for India because it demonstrates that the control test, when applied produces employment status for gig workers requiring statutory requirement.

The Three-Category Employment Framework

The three-category Framework: *'employee'* (protected by full range of employment rights), *'worker'* (protected by core rights including minimum wage and paid holiday but not unfair dismissal or redundancy), and the *'self-employed'* (protected by neither). This intermediate *'worker'* category – defined in the *Employment Rights Act 1996* and the *National Minimum Wage Act 1998* as a person who works under a contract to perform work or services for another party whose status is not that of a client or customer of the worker's profession or business – has no direct equivalent in Indian Law. It is this category that makes the response of UK to gig work effective and partially instructive[63].

[62] Int'l Labour Org., Realizing Decent Work in the Platform Economy, ILO Doc. ILC.113/Report V(1) (Jan. 31, 2024), https://www.ilo.org/resource/conference-paper/ilc/113/realizing-decent-work-platform-economy.

[63] Aayushi Swaroop, Between recognition and protection: gig workers and the incomplete promise of India's labour reforms, Oxford Human Rights Hub (Mar 4, 2026), https://ohrh.law.ox.ac.uk/between-recognition-and-protection-gig-workers-and-the-incomplete-promise-of-indias-labour-reforms/ .

Uber V and others v. Aslam and others

The Supreme Court held that the contractual documents constituted an employment contract. This formulation is the doctrinal foundation for treating algorithmic management as employer-equivalent control and can be applicable to Indian judicial analysis of platform work[64].

4.3 Spain and the European Union: The Legislative Presumption Model

Spain's Rider's Law (Ley Rider), 2021

The legislative presumption model represents a more proactive and structurally ambitious response to platform work than the judicial reclassification approach. It does not leave workers to litigate their employment status before courts which is an expensive, slow and outcome-uncertain process. It reverses the burden of proof through legislation. In this, platform workers are presumed to be employees unless the platform can affirmatively demonstrate otherwise. Spain's Royal Decree-Law 9/2021, widely referred to as the *Ley Rider*, is the first national statute in the world to create a specific rebuttable presumption of employment for gig workers, who are engaged through digital platforms[65].

The *Ley Rider* arose directly from a Supreme Court of Spain decision in 2020, in which delivery riders employed by Glovo were held to be employees and not independent contractors. The legislature responded by codifying that decision and extending it universally across the platform economy through a statutory presumption. The law mandates that all persons delivering goods or services through digital platforms are presumed to be employees of the platform with which they are registered. The platform bears the onus of rebutting this presumption. This showcases a reversal of the burden that fundamentally changes the litigation landscape for workers[66]. It also requires platforms to disclose to representatives of workers, the algorithmic rules that govern task assignment, performance evaluation and account

[64] *Uber V and others v. Aslam and others [2021] UKSC 5.*

[65] Real Decreto-ley 9/2021, de 11 de mayo, por el que se modifica el texto refundido de la Ley del Estatuto de los Trabajadores, aprobado por el Real Decreto Legislativo 2/2015, de 23 de octubre, para garantizar los derechos laborales de las personas dedicadas al reparto en el ámbito de plataformas digitales (Spain); see also Valerio De Stefano & Antonio Aloisi, European Legal Framework for Digital Labour Platforms, European Commission JRC Technical Reports (2018), available at https://publications.jrc.ec.europa.eu/repository/handle/JRC112243.

[66] Tribunal Supremo (Sala de lo Social), Sentencia No. 805/2020, de 25 de septiembre de 2020 (Spain) (holding Glovo riders to be employees); Jeremias Adams-Prassl, 'Humans as a Service: The Promise and Perils of Work in the Gig Economy' (Oxford University Press, 2018) 130–145.

deactivation. This ensures a transparency obligation which goes beyond anything presently contemplated in Indian statute or judicial doctrine[67].

The practical consequences were immediate and instructive. Glovo, the dominant food delivery platform in Spain, reclassified approximately 12,000 delivery workers as employees and withdrew from the Spanish market entirely for a period, before re-entering under a compliant employment model. This outcome illustrates both the transformative potential of this presumption model. It directly converts contractor relationships into employment[68].

The European Union Platform Work Directive, 2024.

The legislative presumption model found its most comprehensive and geographically expansive expression in the European Union's Directive on Improving Working Conditions in Platform Work. It was formally adopted by the Council of the European Union in October 2024 after years of contentious negotiation[69]. This directive applies across all 27 Member States and establishes a harmonised framework that operates on two complementary pillars: a rebuttable presumption of employment and a suite of rights governing algorithmic management.

On the presumption of employment, this directive provides that where a digital labour platform exercises direction and control over the performance of work, a legal presumption of employment shall apply. The platform bears the burden of rebutting this presumption. This directive identifies five indicative criteria of control: fixing remuneration or setting upper limits; requires workers to observe rules regarding appearance, conduct or performance; supervise the execution of work through electronic means; restricting freedom to organise work, including the freedom to choose working hours or periods of absence; and restricting the ability to work for third parties. Where two of these five criteria are satisfied, the presumption

[67] Aurélien Acquier, Thibault Daudigeos & Jonatan Pinkse, 'Promises and Paradoxes of the Sharing Economy: An Organising Framework' (2017) 125 Technological Forecasting and Social Change 1; Real Decreto-ley 9/2021 (Spain), Art. 1 (inserting Disposición Adicional 23 into the Workers' Statute, mandating algorithmic transparency towards workers' representatives).

[68] Int'l Labour Org., World Employment and Social Outlook: The Role of Digital Labour Platforms in Transforming the World of Work (ILO 2021) 98–102; Amaury Bourblanc, 'The Riders' Law in Spain: A Legislative Solution to Platform Work?' (2022) 13 European Labour Law Journal 210.

[69] Directive (EU) 2024/2831 of the European Parliament and of the Council of 23 October 2024 on improving working conditions in platform work [2024] OJ L 2024/2831; see also Valerio De Stefano, 'The Rise of the "Just-in-Time Workforce": On-Demand Work, Crowdwork and Labour Protection in the "Gig Economy"' (2016) 37(3) Comparative Labour Law & Policy Journal 471.

of employment is triggered. If two of these five criteria are satisfied, the presumption model is triggered[70].

On algorithmic management, this directive imposes four obligations on platforms that have direct parallels in the Indian platform economy debate. First, platforms must inform workers about how automated monitoring and decision-making systems operate, including what personal data is processed and how decisions affecting workers' earnings and working conditions are generated. Second, platforms must provide human review of any significant decision taken or supported by an automated system, including account deactivation and task suspension. Third, platforms must provide workers' representatives with sufficient information about the algorithms governing them to allow meaningful negotiation and social dialogue. Fourth, platforms are prohibited from processing certain categories of personal data through automated monitoring, including data revealing emotional or psychological state, private communications or data concerning a worker when she is not performing platform work[71].

The significance of the EU Directive for India's reform debate is threefold. First, it demonstrates that the presumption model is legally viable and politically achievable at scale. Second, the five-criteria test for triggering the presumption maps almost exactly onto the six algorithmic control mechanisms. Third, the mandatory human review obligation directly addresses the concern about the limits of judicial review in an algorithmically managed economy. The algorithmic management rights embedded is the most comprehensive regulatory framework for platform work adopted to date[72].

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[70] Directive (EU) 2024/2831, Arts. 4–8 (establishing the presumption of employment and the five indicative control criteria); Nicola Countouris & Valerio De Stefano, 'New Trade Union Strategies for New Forms of Employment' (ETUC 2019) 44–57.

[71] Directive (EU) 2024/2831, Arts. 9–15 (algorithmic management rights); Miriam Cherry & Antonio Aloisi, '"Dependent Contractors" in the Gig Economy: A Comparative Approach' (2017) 66 American University Law Review 635, 668–672.

[72] Int'l Labour Org., Realizing Decent Work in the Platform Economy, ILO Doc. ILC.113/Report V(1) (Jan. 31, 2024), https://www.ilo.org/resource/conference-paper/ilc/113/realizing-decent-work-platform-economy ; Jeremias Adams-Prassl & Martin Risak, 'Uber, Taskrabbit, & Co: Platforms as Employers? Rethinking the Legal Analysis of Crowdwork' (2016) 37(3) Comparative Labour Law & Policy Journal 619.

4.4 California: The Political Exemption Model

California AB5 and Proposition 22: The Arc of Platform

The California experience is a study in the political economy of labour law reform in the platform age. It is instructive not because it succeeded but because it failed, and the manner of its failure illuminates a structural risk that any jurisdiction contemplating gig worker protection reform, including India, must take seriously.

In September 2019, the California legislature enacted assembly bill 5 (AB5), codifying the *ABC test* established by the California Supreme Court in *Dynamex Operations West, Inc. v. Superior Court of Los Angeles* (2018). The ABC test creates a presumption of employment that can only be rebutted by demonstrating three conditions: (A) that the worker is free from the control and direction of the hiring entity in performing the work; (B) that the work performed is outside the usual course of the hiring entity's business; and (C) that the worker is customarily engaged in an independently established trade, occupation or business of the same nature as that involved in the work performed. Condition B proved fatal to platforms as a delivery worker performing deliveries for a delivery platform is performing work within the usual course of that platform's business.

Proposition 22 carved app-based transportation and delivery companies out of AB5 entirely, creating a new category of 'app-based worker' entitled to a limited set of benefits , a minimum earnings guarantee of 120 percent of the applicable minimum wage for engaged time (not waiting time), a healthcare subsidy for workers who work more than 15 hours per week, and compensation for on-the-job accidents , without the full employment protections that AB5 would have conferred[73]. It was subsequently challenged on constitutional grounds and struck down in its entirety by the Alameda County Superior Court in 2021, a decision that was partially reversed by the California Court of Appeal in 2023, which upheld most of Proposition 22 while striking down its provision preventing the legislature from allowing app-based workers to organise collectively[74].

[73] California AB5, Assembly Bill No. 5, Chapter 296, Statutes of 2019 (Cal. 2019); Dynamex Operations West, Inc. v. Superior Court of Los Angeles, 4 Cal. 5th 903 (2018); Shannon Liss-Riordan & Lichten & Liss-Riordan, 'The Fight to Classify Gig Workers as Employees' (2020) 52 Columbia Human Rights Law Review 1.

[74] California Proposition 22, App-Based Drivers as Contractors and Labor Policies Initiative Statute (Cal. 2020); Veena Dubal, 'The Time Thievery of Platforms' (2023) 113 California Law Review 1; Ken Jacobs, Ian Perry & Jenifer Mac Gillvary, The Public Cost of Low-Wage Jobs in the Fast-Food Industry (UC Berkeley Labor Centre 2021).

The California episode yields three lessons of direct relevance to the Indian legislative reform project. First, it confirms that the political and structural capacity of platform enterprises to resist classification reform through organised political action is formidable.

Second, Proposition 22 demonstrates the inadequacy of the 'third category' or 'intermediate status' model when its content is determined by the industry it is designed to regulate[75].

Third, the California experience illustrates the importance of collective worker voice is a precondition for durable reform[76].

[75] Miriam Cherry, 'A Taxonomy of Virtual Work' (2011) 45 Georgia Law Review 951; Karan Sangani, 'Reconceptualising Labour Regulations for Workers in the Gig Economy' (2022) 9(1) NLIU Law Review 92, 109–113.

[76] *Castellanos v. State of California, 89 Cal. App. 5th 1 (2023)*; Balaji Parthasarathy et al., Fair work India Ratings 2024: Labour Standards in the Platform Economy (2024); V.V. Giri National Labour Institute, Gig Workers and Social Security: An Analytical Study (VVGNLI 2023).

CONCLUSION

This study reveals a structural failure that is the gap between recognition of gig workers in the Code on Social Security, 2020 and the absence of enforceable protections in the statutes, governing wages, employment relations, occupational safety, and social security. The research demonstrates that platforms exercise control over gig workers through six documented mechanisms which are unilateral wage-setting, GPS monitoring, algorithmic performance evaluation, account deactivation, acceptance-rate penalties, and fixed work-slot requirements. The statutory definitions of ‘worker’, ‘workmen’, ‘employee’, and ‘factory’ were designed in an era of industrial capitalism and cannot accommodate platform work. The legislative amendments in 2019-20 to labour framework in India remains unimplemented nearly six-years after the enactment. Comparative jurisprudence demonstrates viable alternatives. Spain and the European Union have adopted legislative presumptions of employment that shift the burden of proof to platforms. These models offer instructive pathways for India. This study argues that Indian labour law reform must adopt two complementary mechanisms: first, a statutory presumption of employment for workers engaged through digital platforms, rebuttable only upon demonstration that workers exercise genuine independence; second, mandatory algorithmic transparency obligations requiring platforms to disclose and justify the systems governing task assignment, performance evaluation, and account management. These reforms will convert legal recognition into enforceable protection. It will ensure dignity and fairness in platform work.