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BUSINESS

Social security for gig workers – a joint responsibility?

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In the present-day business discourse across the world, gig economy has become a widely used term. Simply put, the term broadly encompasses on-demand delivery of work with little to no formal commissioning.

Individuals engaged in the current economy working for remuneration outside a traditional employee-employer relationship can be broadly categorised into two segments: platform based, and non-platform based. While platform-based gig-workers are engaged in work based on online applications or digital platforms, non-platform-based gig-workers are generally casual or temporary workers working part-time or full-time. Even though gig arrangements are not a new-age concept, these days it has gained considerable impetus because of massive digitization and rise of technology-based gig work platforms.

With its large informal economy and vast segment of casual workers, gig work in the world's most populous country has been common for years. Boosted by

initiatives like “Digital India” and the success of platform-based tech companies, gig economy in India has been on the rise over the past few years. Now we see technology-based platforms making inroads and expanding to tier II & III cities in India, resulting in rise of gig work opportunities. According to a report by NITI Aayog, the Indian gig force is expected to grow to 23.5 million workers by 2029-30, which is a massive jump from the existing 7.1 million force. As India is successfully charting a path towards becoming a US\$5tn economy, the increasing gig workforce will be playing a significant role of a building block towards achieving this goal.

Gig economy is here to stay and will be a major part of business operations and e-commerce in the years to come. Considering this, it is imperative to think about the social security (provident fund and pension) and insurance related coverage and benefits for gig-workers. At this time, platform workers do not fall under any labour regulation. The Code on Social Security, 2020 (Code) which has been enacted but not yet effective, will legally recognise the relationship by introducing and defining 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”. The Code enables the government to formulate social security schemes for gig workers to provide for life and disability cover, accident insurance, health and maternity benefits, old age protection and creche benefits. It proposes a limited contributory scheme for certain category of platforms or aggregators provided in a schedule to the Code.

Until the Code comes in effect, gig workers are dependent on the contractual benefits extended by various gig discovery platforms. Many are in

agreement to provide basic social security benefits and insurance coverage to gig workers, similar to employees. However, this raises the question of who should be responsible for contributing to the social security fund of the gig-workers.

Some tech-based platforms engage with third party entities or agencies who maintain a pool of gig-workers. Such agencies take care of on-boarding, KYC verification, records maintenance, etc. Instead of directly engaging the gig/platform workers, platforms can engage such agencies to supply on demand gig-workers. The platforms would make payment to the agency who is, in turn, responsible for payment to the supplied workforce.

The definition of “aggregators” under the Code basically covers digital intermediaries or a marketplace. There is no specific reference to third party agencies who provide the gig workers to their clients (platforms). As a result, it is unclear if these agencies will be legally required or accountable to make any contributions towards any social security fund. Considering that these agencies play a substantial role of connecting the aggregators and gig-workers and are directly responsible for paying the workers, they may be made jointly responsible for contributing to the fund. This would be similar to the law on contract labour, where the contractor agency contributes provident fund (PF), assuming it has obtained a PF code number. Alternatively, the Code may provide a mechanism for the parties to contractual agree as to who should be liable to make the contributions.

For India to become truly progressive, it needs to strengthen the ambit and coverage of social security. Given the increasing share of gig and platform

workers in the Indian economy, the definition of “aggregators” under the Code should be widened to include third-party agencies. By doing this, it will benefit the gig economy ecosystem in India as it would ensure the contribution to the social security fund and accordingly help formalize and promote the workers into the gig economy.



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