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## Quick Insights

UCS POV | An Overview of The Payment of Bonus Act, 1965

Adani, Mahindra, Other Top Conglomerates Sign Up For PM Internship Scheme

Cabbie Is Employee, Posh Act Applicable: Karnataka High Court

PF Exempted Trust Reserves And Surplus Utilization

New Labour Codes Set For Rollout As 25 States Finalise Draft Rules

Cheer For Middle Income Salaried Class? VPF Limit For Tax-Free Interest May Be Hiked From Rs 2.5 Lakh

Court Allows Company To Recover Rs 5 Lakh From Employee For Quitting Without Notice

HC Rejects IIT-Bombay's Appeal Against Payment Of Gratuity To 3 Workers

PM's Internship Scheme Included In Common Theme For CPSES CSR Spend In FY25

Insurance Benefits For EPFO Members Extended Retrospectively From April 28

E-Shram 2.0 To Integrate More Central Schemes, Extend Social Security Coverage

Karnataka Announces Cess On Transactions Conducted Through Aggregator Platforms To Support Gig Workers

## UCS POV | An Overview of The Payment of Bonus Act, 1965

— Bala Harish,  
Vice President

### Introduction :

The Payment of Bonus Act, of 1965, is a significant law of Indian labour legislation that mandates the payment of statutory bonuses to employees in establishments employing not less than 20 or more employees on any day during the accounting year. The Act aims to provide a portion of the establishment's profits to employees, boost their morale, enhance workplace satisfaction, and improve industrial relations.



### Key Factors of the Act:

- **Wage Ceiling:** Employees earning up to ₹21,000 per month are eligible for a bonus
- **Wage Definition:** "All remuneration (other than remuneration for overtime work) capable of being expressed in terms of money, which would, if the terms of employment, express or implied, were fulfilled, be payable to an employee

*in respect of his employment or of work done in such employment. This includes dearness allowance (all cash payments, by whatever name called, paid to an employee on account of a rise in the cost of living).*

*However, it excludes the following:*

- Any other allowance the employee is entitled to;
- The value of any house accommodation, supply of light, water, medical attendance, or other amenities;

- Any travelling concession;
- Any bonus (including incentive, production, and attendance bonus);
- Any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the employee under any law;
- Any retrenchment compensation, gratuity, or other retirement benefit payable to the employee;
- Any ex-gratia payment made to the employee;
- Any commission payable to the employee."
- Minimum Service Requirement: Employees must complete at least 30 days of work during the accounting year to be eligible for the bonus.

## Factors to Consider for Bonus Calculation:

- Minimum and Maximum Percentage: The minimum bonus percent is 8.33% of basic wages and dearness allowance, while the maximum is 20%.
- Allocable Surplus: The bonus percentage is determined based on the company's allocable surplus.
- Loss-Making Companies: Even if a company incurs a loss, it must pay the minimum bonus after the 5-year infancy period of the establishment.
- Profit-Making Companies: The 5-year bonus holiday period does not apply in this case. If there are no losses, eligible employees are entitled to receive a Statutory bonus, even during the infancy period.



- Bonus Calculation Method: As per Section 12 of the Payment of Bonus Act, for bonus calculation, the per month wage should be considered as ₹7,000 or the state minimum wage whichever is higher for all the employees who are eligible for a bonus under the Act i.e., whose wage is up to ₹21,000 per month.
- Bonus Calculation Formula: The calculation should be uniform for all eligible employees as per the formula prescribed which is ₹7000 or the Minimum wages applicable for the said period (whichever is higher) x 12 months x % of Bonus /365 x no. of days worked during the accounting year. All approved leaves, weekly offs and holidays shall be considered as "worked" days.
- Monthly Bonus Pay-Out Practice: Under Section 17 of the Payment of Bonus Act, 1965, customary or interim bonuses can be adjusted against the bonus payable under the Act.

However, this provision is limited to advance bonus payments like Puja bonus or other similar bonuses and does not extend to monthly bonus payouts. Monthly bonus payouts fall under the definition of "wages" as per Section 2(22) of the Employees' State Insurance Act, 1948. Therefore, ESIC contributions apply to these payouts. This would incur additional costs for the company through employer contributions and would also result in employees receiving a reduced net bonus amount due to ESIC deductions.

## Bonus Compliances Prescribed under the Act:

- Timely Payment: The bonus must be paid within 8 months of the financial year's closure.
- Form A&B Registers: Establishments must maintain these registers to track bonus-related financial figures. On-demand, from the authority this register is required to be furnished for inspection.
- Form C Register: Individual Employee-wise bonus paid details are to be maintained.
- State Jurisdiction: Establishments under State Appropriate jurisdiction (following an April-to-March fiscal year) must pay the statutory bonus before November 30th and file annual returns before December 30th.
- Central Jurisdiction: Establishments under Central Appropriate jurisdiction (following an April-to-March fiscal year) must file annual returns before February 1st.

## Conclusion:

The Payment of Bonus Act provides a valuable benefit to eligible employees in India. Understanding its key provisions and ensuring compliance is essential for employers to avoid penalties and foster positive labour relations.



## Adani, Mahindra, other top conglomerates sign up for PM Internship Scheme

Leading companies from India Inc such as ITC, Reliance Retail and TCS have started hiring interns under the central government's new PM Internship Scheme launched recently. The new interns are being hired for across roles such as sales, marketing, entrepreneurship and farm-focused roles, reported The Economic Times.

### About the scheme

According to the Ministry of Corporate Affairs (MCA) portal, candidates should be between 21 and 24 years of age, not having full time jobs. They should have passed a minimum of Class 10 and have annual household income of less than ₹8 lakh in 2023-24 to be eligible for application under the new job scheme. The scheme excludes post-graduates.

It aims to offer a monthly stipend of ₹5,000 for a year to 1 crore interns who are expected to join top 500 companies over the next five years. The top 500 companies for the scheme have been identified on the basis of their average CSR (Corporate Social Responsibility) expenditure in the last three years. Interested candidates should register themselves on the MCA portal [www.pminternship.mca.gov.in](http://www.pminternship.mca.gov.in), following which their documents will be matched with companies' requirements. These companies will then hire candidates based on skills and need. More than 2,200 internship opportunities have been listed on the portal for the scheme, launched on a pilot basis.

### Companies Hiring Interns

Adani Group, Coca-Cola, Eicher, Deloitte, Mahindra Group, Maruti Suzuki, PepsiCo, HDFC, Wipro, ICICI, Hindustan Unilever, Samsung and Hewlett Packard are among 500 firms to have listed themselves under the scheme. The Mahindra Group is set to hire 2,100 interns across multiple businesses. A majority of these opportunities will come from the company's auto and farm equipment sector, while Mahindra Finance will also hire 100 interns.

A senior executive from a leading firm told The Economic Times that the stipend needs to be increased. The stipend amount is minimal and should be definitely increased to help youth who are not employed and incentivise applicants. "Considering that large companies have onboarded as partners in the scheme, perhaps the companies may themselves increase the stipend amount," he added.

## Cabbie Is Employee, PoSH Act Applicable: Karnataka High Court

The Karnataka High Court's judgement that the cabbie is an employee of Ola under the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, (PoSH Act) is regarded significant. Justice Kamal passed this order while partly allowing the petition filed by the woman, who had questioned the stand taken by the Internal Complaint Committee (ICC) of ANI Technologies Pvt Ltd (Ola). The committee did not take action on the driver as laid out by the PoSH Act.

The court said that for the purpose of the PoSH Act, the driver-subscriber is an 'employee' of Ola. "...for purposes of advancement of the intent and object of the PoSH Act, 2013, it is necessary and compelling that the meaning of the term 'employee' be extended to cover persons like driver-subscriber. Anything short of this would result in rendering the purpose, intent and object of the PoSH Act, 2013, ineffective in the vast private sector of this nature," Justice Kamal said. Ola had claimed that it is merely an 'Intermediary' providing technology-based platform for driver-subscribers and the rider-subscribers without having control of any nature whatsoever over either of them. It said that drivers are not its 'employees', but were 'independent contractors' and that ICC has no jurisdiction to initiate any inquiry under the PoSH Act. Ola also submitted that there is no relationship between 'employer' and 'employee'. The aggregator further argued that under Section 11 of PoSH Act, respondent in a complaint of sexual harassment has to be an 'employee' for the ICC to conduct an inquiry into the complaint of an 'aggrieved woman'. However, the court said that being an aggregator under the Aggregators Rules 2016 (state Rule), Ola has additional statutory obligation of ensuring the safety of the passengers by further ensuring proper use of the taxi/vehicle and to inform occurrence of any untoward incident to the licensing authority and to the police. Failure of which entails the authorities concerned to revoke the licence in the manner enumerated under the rules. The court further said, "Argument canvassed on behalf of Ola is that there is no compulsion to utilise its service, and one is free and at liberty to choose or not to choose. True it is, that though such an option is available, the same cannot be used as an excuse not to adhere to the statutes and directives as held by the Supreme Court in the case of LIC of India case of 1995."

*Source : Deccan Herald*

## PF Exempted Trust Reserves and Surplus Utilization

The EPFO has issued a circular regarding the utilization of Reserves and Surplus by private Provident Fund Trusts of exempted establishments. The circular was issued after observing instances of exempted establishments seeking permission to utilize



*Source : MSN*

Reserves and Surplus lying in the Provident Fund Trusts by crediting interest to existing beneficiaries at a much higher rate than the EPFO notified interest rate during or just prior to surrender of exemption and transition to the EPFO. The EPFO has set out the following principles for the utilization of Reserves and Surplus:

- Inflated Reserves and Surplus is indicative of non-distribution of earnings of previous years amongst the compulsory beneficiaries.
- Interest is to be credited on monthly running balances and cannot be credited for broken periods of a year.
- The rate of interest allowed to beneficiaries should be appropriate with the earnings of the fund.
- Overdrawal of Reserves and Surplus is not permitted.

The EPFO has also instructed the Regional Provident Fund offices to highlight such instances as part of the compliance audit as per the Standard Operating Procedure (SOP) for management and regulation of EPF exempted Trusts. It is also clarified that such surplus should be transferred by the establishments to the EPFO upon surrender of exemption in accordance with Para 28(2) of the EPF Scheme.

**Source : Govt.Notification**

## New Labour Codes Set For Rollout As 25 States Finalise Draft Rules

With 25 of India's 28 states and eight Union Territories having finalised draft rules under the new labour code laws, the long-anticipated implementation of the four labour codes passed by Parliament in 2019-2020 appears to be finally approaching, according to a report by The Financial Express. The remaining three states, including West Bengal, which had previously raised concerns about the codes, have now agreed to draft the necessary subordinate legislation to enforce them, the report noted. The four labour codes aim to strike a balance between easing labour market restrictions and enhancing workers' rights and welfare.

To streamline business operations and encourage trade and investment, 44 labour-related laws were consolidated into four comprehensive codes.



These reforms aim to simplify compliance requirements while also decriminalising several minor offenses. The new codes place a particular focus on skill development and enhancing mechanisms for dispute resolution.

Although the government has not yet set a date for notifying the labour codes, it is expected to happen by next year. In addition to West Bengal, Meghalaya and Nagaland have yet to draft their rules.

### What are the new labour codes?

The four codes include the Code on Social Security 2020, the Occupational Safety, Health and Working Conditions Code 2020, the Industrial Relations Code 2020, and the Code on Wages 2019.

**Ensuring minimum wage:** The new codes ensure all workers have a statutory right to minimum wages and timely payment, supporting inclusive development and sustainable growth. Additionally, a uniform definition of 'wages' across all four codes has been introduced to prevent multiple interpretations and reduce litigation.

**Provisions for health-checkup and formal contracts:** The codes also include provisions for annual health check-ups and medical facilities, which are expected to improve labour productivity and longevity. For the first time, a statutory requirement for employers to issue appointment letters to all employees has been introduced, formalising contracts and improving job security. Workers will now be able to claim statutory benefits such as minimum wages and social security.

**Social security for gig workers:** Other provisions include the creation of a Re-skilling Fund to support skill development and social security schemes for gig and platform workers, with contributions from both aggregators and government sources. The government may also extend benefits to unorganised, gig, and platform workers through the Employees' State Insurance Corporation or the Employees' Provident Fund Organization.

**Gratuity and other benefits:** Workers on Fixed Term Employment will now receive the same benefits as permanent employees and be eligible for gratuity after one year of service. Furthermore, workers will be entitled to annual leave with wages after 180 days of work, rather than the previous 240-day requirement, and will have the option to encash leave at the end of the calendar year. The applicability of the Employees' Provident Fund has also been expanded to cover all industries, not just those previously listed.

### Workings of the new labour codes

Labour laws fall under the Concurrent List of the Constitution, meaning both the Centre and states have the authority to create rules. However, in cases of conflict between state and central laws, central legislation typically prevails unless the state's law has obtained Presidential approval. State governments are tasked with drafting rules to address areas not fully covered by the labour codes and where the power to elaborate has been granted to the appropriate government. This includes rules on issues such as working hours, overtime provisions, and trade union verification processes.

**Source : Business Standard**

## Cheer For Middle Income Salaried Class? VPF Limit For Tax-Free Interest May Be Hiked From Rs 2.5 lakh



VPF limit for tax-free interest to be hiked? The government is considering increasing the limit on voluntary provident fund (VPF) contributions under the Employees' Provident Fund Organisation (EPFO) that earn tax-free interest. Currently, interest earned on contributions above Rs 2.5 lakh is taxable. The objective is to encourage lower-middle and middle-income salaried individuals to save more through EPFO, enabling them to build a substantial retirement corpus. The ministry of labour and employment is examining the issue and may discuss it with the finance ministry during the FY26 budget deliberations, people familiar with the matter told ET. The Rs 2.5 lakh ceiling on voluntary contributions was introduced in the FY22 budget to prevent high-income employees from using the facility to earn tax-free interest higher than that offered by banks or fixed deposits.

VPF contributions, interest, and maturity proceeds are typically exempt from taxation. EPFO has been offering interest rates above 8% since FY78, reaching a peak of 12% in FY90 and maintaining that level for 11 years until FY2000. The interest rates on PF accumulation were 8.10% for FY22, 8.15% for FY23, and 8.25% for FY24.

Under the current Employees' Provident Funds & Miscellaneous Provisions Act, there is no limit on VPF contributions to the PF account, which can be up to 100% of basic salary and dearness allowance. The government aimed to address the perceived misuse of this provision by high-income earners by capping the tax-free interest income earned on voluntary contributions at Rs 2.5 lakh per year.

EPFO has an average of 70 million monthly contributors, more than 7.5 million pensioners, and a corpus exceeding Rs 20 lakh crore.

**Source : Times Of India**

## Court Allows Company To Recover Rs 5 Lakh From Employee For Quitting Without Notice

A local court here ordered the recovery of Rs 5 lakh from an employee by her employer towards damages for quitting the job without notice and for her unexplained absenteeism. The court allowed the company to recover the amount in an order passed in an ex-parte hearing as the employee did not participate in the court proceedings.

This case involved Mariya Rajput, who was appointed as trainee associate (finance) by Jensen Kobain Solutions Pvt Ltd in Feb 2021 on a probation of six months. After the completion of the probation period, her appointment was confirmed on certain service conditions. The terms of her employment contract required her to submit a written resignation notice 30 days prior to her intended last day of work.



According to the suit filed by the company, after her appointment, Rajput's attendance was irregular, and she used to remain absent from work without obtaining prior approval. When the firm issued an absconding notice to her in Nov 2022, she sent her resignation through an email. The firm told her that her resignation was not in accordance with the employment agreement and advised her to withdraw it and requested her to work at least until her notice period was over. However, the employee continued to remain absent. The firm then issued a notice to her through an advocate, asking her to pay Rs 5 lakh for quitting the job in violation of employment terms, but the notice was not replied to. The company filed a suit for breach of contract, specifically citing employment agreement violations, which led to the claimed monetary loss and harm to the company's reputation.

Since the employee did not respond to the court's notice, it decided to proceed ex-parte. After recording the evidence, the court ordered, "The plaintiff has also not been cross-examined by the defendant. Under these circumstances, as discussed above, I have no hesitation to conclude that the plaintiff-company is entitled to recover an amount of Rs 5,00,000 from the defendant as legal and valid dues."

**Source : HR EconomicTimes**

## HC Rejects IIT-Bombay's Appeal Against Payment Of Gratuity To 3 workers



The Bombay High Court recently rejected an appeal by the Indian Institute of Technology-Bombay against the orders of the Assistant Labour Commissioner (Central), which acted as Controlling Authority that directed the institute to pay gratuity to three contract workers under the Payment of Gratuity Act. Raman Sukar Garase, one of the three workers who were granted relief by the authority, allegedly died by suicide in May this year, due to his long drawn legal battle for gratuity for contract workers, which he had been fighting for since his retirement in 2018 after 39 years of contractual service as a gardener. It was alleged that he died by suicide due to non-availability of funds to take care of medical expenses.

A single-judge bench of Justice Sandeep V Marne on October 4 passed a verdict on plea by IIT-Bombay against the authority's decision of January, 2022, in favour of Tanaji Babaji Lad, Dadarao Tanaji Ingle and Garase. The orders passed by the Controlling Authority were upheld by the Appellate Authority and Deputy Chief Labour Commissioner (Central), though orders dated April 3, 2024 and same were also challenged by the institute. The Controlling Authority, after considering rival contentions, held that the institute was liable to pay gratuity to the three and had directed the IIT-Bombay to pay Rs 1.89 lakh to Lad, Rs 2.35 lakh to Ingale and Rs 4.28 lakh to Garase, along with 10 per cent annual interest on the amounts accrued from their retirement dates. Advocate Arsh Mishra for IIT-Bombay argued that the authorities failed to consider that there was no employer-employee relationship between the institute and the three contractual workers as they were employees of the contractor, who alone was responsible for payment of gratuity. The institute did not control or supervise them, Mishra argued. He added that the authorities erred in holding that the director of IIT-Bombay had ultimate control over affairs of establishment. Senior advocate Gayatri Singh and advocate Sudha Bharadwaj for the respondent workers argued that they had been working with the institute for a considerable period of time through several contractors since 1999. Singh argued that while Lad and Ingale had already withdrawn the principal amount of gratuity from the Appellate authority, Garase's widow was in dire need of funds and she should be allowed to withdraw the dues.

Justice Marne noted that if respondent workers were made to "run behind multiple contractors from security gratuity from each of them, the same would not only result in multiplicity of proceedings but would also frustrate the very purpose of creating swift and speedy remedy before the Controlling Authority for payment of gratuity". The judge noted that it was difficult to hold that IIT-Bombay had absolutely no control over them over the years and it clearly appeared to be "an arrangement of merely routing of salaries through contractors". The bench added that as per work order issued to last contractor M/s Moosa Services Company, there was no specific condition for payment of gratuity to the contractor, despite there being mandate for contractor to Provident Fund and ESIC contribution.

Finding no error in orders passed by Authorities, the bench permitted legal heirs of Garase to withdraw the entire amount of gratuity deposited before the appellate authority and directed the IIT-Bombay to pay amount of interest awarded by the authorities to respondents or their legal heirs within two months.

*Source : Indian Express*

## PM's Internship Scheme Included In common Theme For CPSEs CSR spend in FY25

The Government has revised the CSR guidelines for CPSEs by including PM's Internship Scheme as the common theme for the current fiscal, an official said. Currently, Central Public Sector Enterprises (CPSEs) follow a theme-based approach in utilising their Corporate Social Responsibility (CSR) funds. CPSEs have to spend 60 per cent of their CSR funds on the theme set for a particular year. "We have added PM's Internship Scheme to 'Health and Nutrition' as the common theme for CSR activities by the CPSEs for 2024-25. CPSEs will spend 60 per cent of their CSR funds towards 'health and nutrition' and PM's Internship Scheme this fiscal," an official told PTI.

The Ministry of Corporate Affairs, earlier this month, started enrolling companies as well as interns under the Prime Minister's Internship Scheme. Over five years, the scheme envisages providing internships to 1 crore youth. Under the pilot project, which is estimated to cost around Rs 800 crore, the 12-month long internship will start on December 2 and expects to cover 1.25 lakh candidates in the current financial year ending March 2025. The PM Internship Scheme was announced by Finance Minister Nirmala Sitharaman in her 2024-25 Budget. Under the scheme, top 500 companies will provide internship opportunities to youth within the age group of 21-24 years as well as provide life insurance coverage.



Apart from the monthly financial assistance of Rs 5,000 for one year, there will be a one-time grant of Rs 6,000 for the interns. The monthly assistance would comprise Rs 4,500 to be disbursed by the government and Rs 500 by the company from its CSR funds. The official further said that as private sector takes the lead in providing internship opportunities, the CPSEs too would be encouraged to join the scheme. Under the scheme, candidates can register on the portal by October 25 and the applicants will be shortlisted on October 26.

Later, candidates will be selected by companies from October 27 to November 7. Then, the selected candidates will have time from November 8 to 15 to accept the offer. Up to three offers will be made to a candidate.

*Source : Economic Times*

## Insurance Benefits For EPFO Members Extended Retrospectively From April 28

Union Labour Minister Mansukh Mandaviya recently announced extension of the enhanced insurance benefits for all members of retirement fund body EPFO under Employees' Deposit Linked Insurance (EDLI) scheme. The move will ensure up to Rs 7 lakh of life cover to more than 6 crore EPFO members. The scheme has been extended with retrospective effect from April 28, 2024 onwards, Mandaviya told reporters here. EDLI Scheme, launched in 1976, seeks to provide insurance benefits to members of the Employees' Provident Fund Organisation (EPFO) in order to ensure some financial assistance to each member's family in case of the member's death. In 2018, the minimum insurance cover of Rs 1.5 lakh was introduced under the scheme. Till April 2021, the maximum benefits to the legal heir of the deceased employee was capped at Rs 6 lakh as per the criteria defined in the EDLI Scheme. Later, the government, through a notification issued on April 28, 2021, enhanced both minimum and maximum benefits under the scheme to Rs 2.5 lakh and Rs 7 lakh, respectively, for the next three years.

Further, the condition of continuous service of 12 months in an establishment was also relaxed so as to cover even those employees who changed jobs during that period. These benefits were effective for the three-year period which came to an end on April 27, 2024.

*Source : Business Standard*

## E-Shram 2.0 To Integrate More Central Schemes, Extend Social Security Coverage

Labour Minister Mansukh Mandaviya will launch the upgraded version of the eShram portal recently in order to make the platform a "one-stop-solution" for unorganised labour to have access to various social sector schemes, an official release said. The upgraded portal, also known as eShram 2.0, aims to integrate information of beneficiaries of all social security and welfare schemes meant for unorganised workers, who are about 300 million, in an effective manner through a single platform.

As of now, 12 schemes of different Central Ministries/Departments have already been integrated with the eShram. In the upgraded version, more such schemes will be linked with the portal. Recently, the Labour Ministry held a meeting with representatives of Platform Workers' associations to discuss ways in which social security protection could be extended to these workers. The Ministry has asked aggregators to register the workers on the e-Shram portal for generation of their unique IDs, which will be useful in identifying how many platform workers exist in the country, and subsequently in formulating guidelines for extending social security benefits to them. At present, there are about 20 million such workers across India. "The upgraded version of eShram portal will specifically help in providing social security cover to the platform workers, once they're registered," a senior official had said earlier.

The Ministry has established a committee to develop a 'Framework for providing social security and welfare benefits to gig & platform workers,' which will gather perspectives from all relevant stakeholders. As per official sources, various options are on table, such as deducting contribution per transaction, or levying a cess, for providing workers with social security benefits such as health insurance and pension. Since a gig or platform worker can be working on several platforms, they cannot be brought under the employer and employee relationship. Thus the government is looking at assigning a unique ID to such workers based on which contributions per transaction can be deducted through the platform, according to sources. Since the launch of e-Shram on August 26, 2021, it has demonstrated its widespread appeal among unorganised labour. "This achievement underscores the social impact of the initiative and the government's commitment to supporting the nation's unorganised workers," the release said.

*Source : Financial Express*

# Karnataka Announces Cess On Transactions Conducted Through Aggregator Platforms To Support Gig Workers

Karnataka government has decided to impose a new cess on transactions via aggregator platforms like Zomato, Swiggy, Ola, and Uber. This move aims to fund social security for gig workers in the state.

Karnataka labour minister Santosh Lad said, "The Labour Department of Karnataka has decided to impose cess on every transaction on aggregator platforms like Zomato, Dunzo, Swiggy, Zepto, Ola and others such." He clarified that the cess will apply to transportation services, not to the purchase of products or goods. The government is drafting a bill to protect the rights of platform-based gig workers.

In the draft, the state government says that the bill intends "to place obligations on the aggregators in relation to social security, occupational health and safety, and transparency."

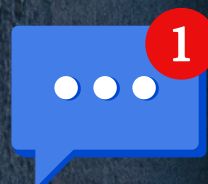
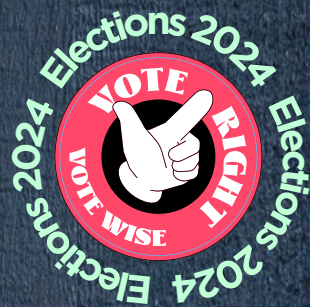


It provides a scope to establish a welfare board and create a welfare fund for the platform-based gig workers in the state. By definition, a gig worker is someone who works short-term or project-based jobs, often as an independent contractor or freelancer, instead of being employed by a single company.

Gig workers are part of the gig economy and are often involved in the service sector. As of now, gig work, being a relatively new form of workforce, has no dedicated labour laws. However, some provisions of Indian labour law cover some parts of the gig work space.

The Employment Compensation Act, 1923, mandates that the employer pay compensation for accidents arising out of and in the course of employment. The applicability of this law to gig workers also remains to be determined by courts. Cess is a tax, generally, one levied for promoting services like health and education among others. Governments often charge a cess for the purpose of development in social sectors.

Source : Times Of India





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