

**REFORMING GRATUITY LAW IN INDIA: AN EXAMINATION OF
THE NEW LABOUR CODE**

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ABSTRACT

The decisive transformation of the Four Labour Codes in November 2025 is a breakthrough in the Indian labour law system as it consolidates the twenty-nine central legislations scattered across the nation into a unified and restructured regime. This paper analyses the "*Code on Social Security, 2020*", and especially reforms brought about in the gratuity law under the ambit of the said code. It examines the expansion of social security coverage to fixed-term, gig, platform, and unorganized employees, the adoption of a unified definition of wages, mandatory government-imposed gratuity insurance, and the ease of requirements in the event of death or disability. The Code provides continuity and consistency of the law and improved protection of the employees and workers by holding on to the basic framework of the previous Act on the Payment of Gratuity, 1972 and making some progressive pragmatic reforms. Another crucial aspect which is emphasized in the article is the employer obligations and accountability, regulatory audits and oversight of compliance measures by concerned authorities to ensure that gratuity is paid timely and in a transparent manner. In general, the reforms aim at striking a balance between labour welfare and employer autonomy in a unified, streamlined, and contemporary labour legal framework.

Keywords: Social Security Code, Gratuity reforms, Fixed-term employment, Pro rata gratuity

BACKGROUND

On 21st November 2025, the Four Labour Codes have come into force by notifications issued by the Ministry of Labour and Employment, consolidating 29 fragmented central legislations which now stands repealed.² The respective 4 Codes are:

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- The Code on Wages, 2019
- The Industrial Relations Code, 2020
- The Occupational Safety, Health and Working Conditions Code, 2020
- The Code on Social Security, 2020

This codification was done with the objective to make the labour legal ecosystem more contemporary and efficient with the necessary reforms for the effective reply to the longstanding challenges faced because of the outdated and multitudinous labour laws. It aims to ensure and promote transparency, inclusivity and growth in employment, safety, health, social and wage security. Moreover, it simplifies and harmonizes the compliance and enforcement legal procedure, thus reducing administrative burden and creating a balanced approach towards employer's flexibility with the worker's rights.

OVERVIEW OF THE CODE ON SOCIAL SECURITY, 2020

The Code on Social Security, 2020 is the law which primarily deals with the social security, gratuity, provident fund, and other employee's benefits aspects. The Gratuity Law is a retirement benefit and is now covered under the ambit of "The Code on Social Security, 2020". This Unified Code consolidates 9 existing complex labour laws i.e. (i) The Employee's Compensation Act, 1923; (ii) The Employee's Provident Funds and Miscellaneous Provisions Act, 1952; (iii) The Maternity Benefit Act, 1961; (iv) The Payment of Gratuity Act, 1972; (v) Employees' State Insurance Act, 1948; (vi) Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959; (vii) Cine-Workers Welfare Fund Act, 1981; (viii) Building and Other Construction Workers' Welfare Cess Act, 1996; and (ix) Unorganised Workers' Social Security Act, 2008. The code ensures simplified registrations and ease of compliance. With the contemporary digitized era, the code promotes ease of doing business through digital processes and records with a transparent and technology driven system such as Inspector cum facilitator under "*Section 72 of the Code*".

The major key provisions and reforms introduced under this code are:.

1. The scope of different sectors of workers has been broadened and recognized such as the code now includes the new definitions of Aggregator, Gig Worker, Platform worker, fixed

²Ministry of Labour & Employment, "Government Announces Implementation of Four Labour Codes to Simplify and Streamline Labour Laws" (21 Nov 2025)<https://labour.gov.in/sites/default/files/pib2192463.pdf>.

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term and unorganized workers ³in order to extend the benefits and coverage of all the emerging categories of workers under “*Sections 113 and 114 of the Code*”.

2. Employee’s State Insurance is now applicable among the whole nation. Moreover, establishments with less than 10 employees may voluntarily opt for ESICmembership. But it is mandatory for every single worker involved in any hazardous occupations and plantations.⁴

3. Employee’s Provident Fund (EPF) provisions now under this code are universally applicable to all establishments that have 20 or more employees ⁵regardless of any specific industry or sector, and wherein the code removed the earlier provision of its categorical and industry specific listing in “*Schedule 1 of the Employees Provident Fund & Miscellaneous Provisions Act, 1952.*”

4. Strengthens and promotes women centred provisions dealing with 26 weeks maternity leave, women safety, health, work from home facility and options, medical bonus, night shifts, nursing breaks and creche facility.

5. A Social Security Fund is created in support for the unorganized, gig and platform workers financed partly through penalties.⁶

6. Accidents occurring during the period of commutation between home and workplace are now deemed employment related i.e. occurred in the course of employment and the affected employees or their families can receive compensation.

7. Employee Provident Fund inquiries must be now initiated within 5 years and completed within 2 years (extendable by 1).

KEY REFORMS IN GRATUITY LAW

Gratuity under the code acts as a financial incentive as a retirement benefit to the employees in regards for their long-term contributions and service to the employer and organization. Earlier, the “*Payment of Gratuity Act, 1972*” used to govern gratuity but now after the consolidation, it is governed through “*Chapter V of the Code on Social Security, 2020*”. The chapter outlines the applicability of gratuity covering factories, mines, oilfields, plantations,

³Ibid.

⁴DattopantThengadi, “*The Code on Social Security, 2020*”, National Board for Workers Education & Development, https://dtnbwed.cbwe.gov.in/images/upload/The-Social-Security-Code_T1Z6.pdf.

⁵Ibid.

⁶PRS Legislative Research, “*The Code on Social Security, 2020- PRS India*”, <https://prsindia.org/billtrack/the-code-on-social-security-2020>.

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ports, railway companies, and shops or establishments with 10 or more employees or as notified by the government,⁷ specified in the “*First Schedule of Code on Social Security, 2020*”.

Before analysing the key reforms in the law, let's look upon the basic framework of gratuity under the previous regime which is substantially retained under the code thereby, ensuring legal certainty and consistency.

The Gratuity is calculated as $15/26 * \text{Last drawn salary} * \text{Years of Service}$. The maximum amount payable under the law is Rs. 20 Lakhs. Any amount above this limit is impermissible and the limit continues to apply until revised by the Central Government. The treatment for the applicability of tax on gratuity continues to be governed by “*Section 10(10) of the Income Tax Act, 1961*” wherein the governmental employees are fully exempted from income tax on gratuity received whereas the private sector employees are exempted up to Rs. 20 Lakhs⁸.

Another significant aspect is that gratuity requires an eligibility of minimum of 5 years of service which a permanent employee must render to the employer or the organization except in the special circumstances of death or disability. This acts as an exception to this eligibility. This means the gratuity can be immediately claimed by employee, nominee or legal heir regardless of the 5-year period but in the special circumstances of death or disability⁹.

The Key reforms in the Gratuity Law are as follows:

- **Inclusion of Fixed term Employees-**

It is one of the major reforms introduced by the code which extends the gratuity benefits to the fixed term employees or in other words, contract workers. Under this, gratuity is now payable on a pro rata basis as specified in “*Section 53 of the Social Security code*” and applies upon the expiry or the termination of a fixed term contract after completing just one year of continuous service. This prevents employers from using contracts and agreements as an approach for the refusal and denial of termination benefits (specifically, gratuity) and would further improve job security. However, this reform does not apply to permanent employees and workers which has been retained as per the earlier legislation.

⁷Taxmann, “[Analysis] The Code on Social Security 2020 – Applicability / Key Provisions / Workers Welfare” (29 Nov 2025)<https://www.taxmann.com/post/blog/analysis-the-code-on-social-security>.

⁸ Shivam ,“Social Security Code Gratuity Rules: Eligibility & Calculation”, Corrida Legal (7 May 2025), <https://corridalegal.com/social-security-code-gratuity-rules-eligibility-and-calculation-guide/>

⁹Section 53 of “The Code on Social Security 2020”.

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- **Uniform and Extended Definition of Wages-**

The Code introduced a uniform definition of Wages for the computation of gratuity comprising basic pay, dearness allowance and retaining allowance. It generally required that fixed pay components forming “Wages” must be at least 50% of the total renumeration and the excessive allowances cannot be used to depress the wage base and it shall be deemed and added back to be the wages. This can be expressly referred from “*Section 2(88) of the Code*”. This in return, could lead to higher wages which as a result leads to higher gratuity payouts, thereby boosting retirement savings and strengthening the financial security and safety of the employees.

- **Introduction of Compulsory Gratuity Insurance -**

The Social Security Code further mandates compulsory gratuity Insurance for employers other than the establishments under the control of the Central or State Government from a date to be notified by the appropriate government which can be explicitly referred from “*Section 57(1) of the Code*”. This would ensure timely payment of the benefit and would reduce the risks and circumstances of default and escape. It is significant to note that certain states such as the Karnataka and Andhra Pradesh had already notified mandatory gratuity Insurance rules prior to the Code and are followed consistently until replaced by new notifications from the Code.¹⁰

Employers are even required to register their establishments with the prescribed authorities and the registration is considered valid only if there exists a mandatory clause or provision for Gratuity Insurance coverage and fund. This reinforces transparency, accountability and regulatory oversight upon the enforcement of provision, thereby, ensuring that gratuity benefits to the employees are securely paid through the established fund or provision of the organization.

However, the Code under “*Section 57(2)*” simultaneously empowers to exempt employers from the above Compulsory Gratuity Insurance in certain situations such as where the employer has already maintained an approved gratuity trust fund and voluntary wishes to go ahead with the specific fund and the situation where the employer employs 500 employees

¹⁰Cyril Amarchand Mangaldas ,“*A Guide to The New Labour Codes*” (7 Dec 2025),<https://www.cyrilshroff.com/wp-content/uploads/2025/12/Guide-to-the-Labour-Codes.pdf>.

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and then establishes an approved gratuity fund in the prescribed approach and manner as per law¹¹. This creates balance between employee's protection and employer's autonomy.

- **Employer's Responsibility**

Under the Social Security Code, 2020, employers are legally obligated to ensure accurate calculation and computation, timely payment, and adequate statutory compliance with regards to the gratuity benefit. In order to ensure smooth and efficient compliance procedure, they should maintain detailed records of employee's details such as his tenure, wage formation, nature of employment, contracts, and agreements including fixed term contracts. The law prescribes that the gratuity must be paid within the prescribed timeline of generally 30 days (prescribed in "*Section 56(3) of Code on Social Security, 2020*") beyond which certain penalties would be imposed as mentioned in the "*Section 133*" of the said Code. Furthermore, they are required to clearly communicate gratuity entitlement procedures to employees, maintain an approved gratuity fund or Compulsory Gratuity Insurance and ensure adequate and proper registration with the competent regulatory or authority. Also, regular oversight and audits, accurate documentation and records, and smooth compliance from the employer prevents disputes, defaults and liabilities.

CONCLUSION

The reforms in Gratuity Law under the "*Social Security Code, 2020*" is a decisive transformation towards the implementation of a more liberal approach to Indian labour legislation, streamlining the benefits to employees with the current labour regulations. This will enhance fairness, transparency, and financial security by employees in all sectors as it extends the eligibility of gratuities to fixed-term and contract workers and standardise the definition of wages. It also defined and brought gig and platform workers under the coverage of social security, thought not yet in the gratuity payment scheme. The benefits and coverage of women employees and migrant workers have been expanded and broadened under the code. Nonetheless, these mentioned required reforms are seen and expected to redress the historical and prolonged challenges faced thereby, creating gratuity a statutory right associated with dignity and social justice as a reward to the provided service during the employment.

¹¹Ibid.

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At the same time, it reinforces the accountability of an employer, and helps to ensure certainty, minimize conflicts and establish confidence in the employment relationships. As a whole, it maintains a balanced approach between labour welfare and flexibility of operations in the labour legal environment.

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