



**In Context of Uber BV v. Aslam in London ([2021] WLR (D) 108): Do Uber Drivers  
Work for Uber as Employees or as Independent Contractors?**

**Dr.Monika Jain.<sup>1,\*</sup>**

**Abstract**

*The most contentious question has been whether taxi drivers are independent contractors or employees for a very long time. Cab drivers assert that they are covered by employment and labour rules since they are employees, but transportation network corporations like Uber and Lyft dispute this and assert that cab drivers are independent contractors. Why is it problematic to consider these cab drivers to be employees? The issue is that if a taxi driver strikes off a customer or bystander irresponsibly, the corporation will be held vicariously accountable for the damage. In some cases, victims of drivers' negligence have requested compensation from the firm, claiming that because the drivers are corporate employees, the company is vicariously accountable. The transport network corporations (TNCs) are unwilling to accept responsibility for their actions. The victims have occasionally taken TNCs to court to demand compensation from them despite the fact that they frequently deal with serious legal difficulties. The main goal is to debate whether a cab driver is an independent contractor or an employee. To understand this, it is important to talk about a few key ideas, like vicarious responsibility and where it stands in England and India. Following that, this essay will go over the obligations that transportation network firms have to their taxi drivers. Examining the TNCs' terms and conditions is crucial to comprehending the entire situation. You will see why there is so much contention between the TNC and the cab drivers after reading the terms and conditions. This article explains the interaction between TNCs and cab drivers using the example of one of the most popular TNC Uber business models.*

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<sup>1\*</sup>Dr. Monika Jain, Senior Advocate, High Court of Delhi, New Delhi, India

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## Introduction

Uber drivers are now considered employees under UK labour law, according to the UK Supreme Court. In coming to that conclusion, the Supreme Court unanimously concurred with the rulings of the Employment Appeal Tribunal and Court of Appeal as well as the initial Employment Tribunal's ruling.<sup>2</sup> This ruling reaffirms the Fundamental Rights of Uber drivers in the UK, including their eligibility for benefits like paid time off and the federal minimum wage. Employees, labourers, and independent contractors are the three types of employment status recognised in the United Kingdom.<sup>3</sup> The extent of each category's protection under employment law varies. Contractors receive the least security, while employees are positioned in the centre. Fundamental Rights for workers include paid holidays, rest periods, and the National Minimum Wage. None of these Fundamental Rights are applicable to contractors.<sup>4</sup> A worker is a person who works under either:

1. An employment contract or typical employee
2. Any other type of contract implied or stated, oral or written, pursuant to which:
  - A) They agree to operate on a personal basis for another party; and
  - B) The other party is not the person's client or customer in any professional or business endeavour that they are engaged in.<sup>5</sup>

Regarding the second limb of this test, Uber's appeal to the Supreme Court concentrated on one specific issue: whether the individual drivers had contracts in place to perform services for Uber. According to Uber, they did not, making them independent contractors. The drivers contended that they were employees and did.<sup>6</sup> Uber's main defence before the Supreme Court

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<sup>2</sup> Uber BV v Aslam [2021] UKSC 5,p [75]

<sup>3</sup> Uber BV v Aslam [2021] UKSC 5, p[25].

<sup>4</sup> EU directives as they are applicable to the UK see EU and International Employment Law (Jordan Publishing) [4] and Sweet and Maxwell's Encyclopedia of Employment Law, Volume 2

<sup>5</sup>definition of 'worker' see C-316/13 Fenoll. However, it is unclear whether the Court is ready to use the Charter of Fundamental Rights if the specific right is not replicated in the Directive (see Kounttouris The Concept of Worker in European Union Labour Law: Fragmentation, Autonomy and Scope, Industrial Law Journal 2017).

<sup>6</sup> Fair Work Ombudsman 2017b, Independent contractors and employees, Fair Work Ombudsman, Canberra, viewed 24 September 2017

was that the lower courts had not given enough consideration to how the connection between Uber and the drivers was stated in the pertinent written agreements when coming to their findings.<sup>7</sup> In conclusion, Uber claimed that the written agreements state that Uber London's sole function is to operate as a booking agency for the drivers and that Uber BV's purpose is to supply technical services and serve as a payment collection agent for the driver.<sup>8</sup>

## Background

Uber drivers Mr. Aslam, Mr. Farrar, and others filed a suit with the Work Tribunal (ET) in 2016 requesting information about their work status. The Employment Tribunal rejected Uber's claim that the drivers were independent contractors and determined that they were employees under the law.<sup>9</sup> Due to this ruling, Uber was required to pay its drivers at least the national minimum wage, permit them to take paid annual leave and provide other protections such as against unauthorised pay deductions, discrimination, or being punished for making a whistle-blower complaint, though they were not given the same extensive employment protections as employees.<sup>10</sup> Uber filed an appeal in 2018 contesting this judgement. The Employment Appeal Tribunal (EAT) confirmed that Uber drivers were classified as employees. The topic of working hours and how they were to be calculated for drivers in order to determine minimum pay was also brought up by the EAT.<sup>11</sup> When Uber pursued a second appeal, the Court of Appeal addressed this issue. The Court of Appeal concurred with the ET's determination that the drivers were employees and came to the conclusion that they were working not only when they took customers to their destinations but also when they had the app open and were waiting to accept requests for passenger journeys. Additional appeal from Uber, the Supreme Court heard the most recent (and last) appeal of this matter in 2020.<sup>12</sup>

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<sup>7</sup> Fair Work Ombudsman 2017b, Independent contractors and employees, Fair Work Ombudsman, Canberra, viewed 24 September 2017,

<sup>8</sup> Edwards, J 2017, 'Casual workers win right to request permanent employment after 12 months under Fair Work ruling, ABC News, 5 July, viewed 15 September 2017,

<sup>9</sup> Uber BV v. Aslam in London {[2021] WLR(D) 108}

<sup>10</sup> Department of Economic Development, Jobs, Transport & Resources (Vic) 2016

<sup>11</sup> The Employment Appeal Tribunal (EAT) 2018

<sup>12</sup> Uber BV v. Aslam in London {[2021] WLR(D) 108}

**What factors were taken into account by the Supreme Court?**

Uber's principal defence for the drivers' status as independent contractors rather than employees was the existence of two written contracts, Uber and the drivers and one between the drivers and the clients. According to Uber, in reality, the drivers serve the needs of the passengers rather than themselves.<sup>13</sup> Uber used the language of the legal agreement they had with the drivers, which said that Uber was an independent business and that the drivers were its clients who paid a fee to use the app. Uber contended that they were merely allowing drivers to use the app and that the drivers had separate contracts with the passengers, not that they were actually providing transportation services for passengers.<sup>14</sup> Uber's claim was rejected by the Supreme Court, which ruled that it had made contracts with the passengers and hired the drivers to complete the bookings. The court further ruled that the written contract should not be used as the basis for assessing whether someone is a worker because the intent behind the laws protecting workers should take precedence.<sup>15</sup> The Supreme Court noted that even though a formal agreement has been read, understood, and signed by all parties, it may not accurately depict the underlying nature of a working relationship.<sup>16</sup> As a result, it is also necessary to take into account the parties' actual circumstances and actions. In these circumstances, it is not unusual for the parties to have unequal bargaining power, and employers frequently try to utilise written contracts to contract out of specific statutory safeguards.<sup>17</sup> The Court determined that in certain situations, written agreements' requirements could be disregarded. The Supreme Court judgment sets out five key factors which underpinned the rationale for the decision that the drivers were workers.<sup>18</sup>

1. Uber has control over how much the drivers are paid for the work they do. Uber decides the service fee which is deducted from the fares after setting the fixed fare for each trip. Uber also

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<sup>13</sup> Kaardal, R. J., & Bjornson, A. C. (2018). The gig economy: Dependent contractors, workers' rights, and the Canadian approach. Proceedings of the American Bar Association Employment Rights and Responsibilities Committee Midwinter Meeting (March 20–24, Clearwater, Florida)

<sup>14</sup> Nadler, M. L. (2018). Independent employees: A new category of workers for the gig economy. *NCJL & Tech.* 19, 443

<sup>15</sup> Minter, K 2017, 'Negotiating labour standards in the gig economy: Airtasker and Unions New South Wales', *The Economic and Labour Relations Review*, vol. 28, no. 3, pp. 438-54

<sup>16</sup> Prassl, J & Risak, M 2017, 'The legal protection of crowdworkers: four avenues for workers' rights in the virtual realm', in P Meil & V Kirov (eds), *Policy implications of virtual work*, Palgrave Macmillan, Cham, Switzerland.

<sup>17</sup> Schor, J & Attwood-Charles, W 2017, 'The "sharing" economy: labour, inequality, and social connection on for-profit platforms', *Sociology Compass*, vol. 11, no. 8, viewed 20 September 2017

<sup>18</sup> Shahani, A 2017, 'The faceless boss: a look into the Uber workplace', *NPR News Online*, 9 June, viewed 13 June 2017

has the right to control whether fares are refunded fully or partially following a complaint by a passenger.<sup>19</sup>

2. Uber forced its drivers to sign and approve a standard written agreement, and the drivers had no authority to modify this. This agreement outlines the legal parameters that regulate the services provided by the drivers.<sup>20</sup>
3. After logging into the app, Uber controls the drivers' decision to accept or reject passenger travel requests. Drivers cannot refuse requests based on the destination because Uber does not reveal the destination before the driver agrees.<sup>21</sup>
4. To enhance performance, Uber can also fine drivers who turn down or cancel an excessive number of requests. If performance (from Uber's perspective) does not improve, the company may then take matters further and log drivers out of the app for ten minutes.<sup>22</sup>
5. Uber has considerable influence over the services that the drivers provide. For instance, Uber maps out the driver's route and directs them to the pickup point. Although they are not required to take the prescribed route, drivers who do not are more likely to obtain unfavourable ratings from customers. When ratings do not exceed Uber's criteria, drivers may not have access to the app. Uber uses customer ratings to track driver performance.<sup>23</sup>
6. In order to prevent a relationship between a passenger and a driver from growing beyond the scope of a single trip, Uber limits communication between the two parties. Uber manages all grievances and subsequent communications.<sup>24</sup>

The Supreme Court upheld the initial conclusion that Uber drivers are employees by taking these five considerations into account collectively, rejecting Uber's appeal in the process. The Court

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<sup>19</sup> Schor, J 2017, 'Does the sharing economy increase inequality within the eighty percent?: findings from a qualitative study of platform providers', *Cambridge Journal of Regions, Economy and Society*, no. 10, pp. 263-79

<sup>20</sup> Clewlow, R., & Mishra, G. (2017). *Disruptive transportation: The adoption, utilization, and impacts of ridehailing in the United States*. Institute of Transportation Studies, University of California. Davis, Research Report UCD-ITS-RR-17-07

<sup>21</sup> Berger, T., Chen, C., & Frey, C. B. (2017). *Drivers of disruption? Estimating the Uber effect*. Working paper.

<sup>22</sup> Gehrke, S.R., Felix, A., Reardon, T. (2018). *Fare choices: a survey of ride-hailing passengers in metro Boston*. Metropolitan Area Planning Council

<sup>23</sup> Hall, J. V., & Krueger, A. B. (2018). An analysis of the labor market for Uber's driver-partners in the United States. *ILR Review*, 71(3), 705–732

<sup>24</sup> Nadler, M. L. (2018). Independent employees: A new category of workers for the gig economy. *NCJL & Tech.* 19, 443

further confirmed that the drivers were employed not only while transporting passengers but also while they had the app open and were ready to accept requests for passenger journeys.<sup>25</sup>

### **Understanding the Doctrine of Vicarious Liability**

Let's first define the vicarious responsibility theory before moving on to explore the subject posed in the article's title, i.e., are cab drivers employed or independent contractors? A notion known as imputed liability is known as vicarious liability. In general, we always assume that a wrongdoer will be held accountable for his actions.<sup>26</sup> However, there are several circumstances in which someone else's wrongdoings will also make them liable. This is referred to as the Vicarious Culpability Doctrine.<sup>27</sup> Vicarious liability is, thus, the responsibility that results from another party's actions as a result of their relationship, to put it simply. To establish that a person is vicariously accountable for the deeds of his servant, employee, partner, etc., certain factors must be present.<sup>28</sup>

- For a party to be found vicariously accountable there must be a relationship between the parties.
- The wrongdoing must be associated to the connection.
- The illegal act had to be committed while performing work-related duties.<sup>29</sup>

Since it is now clear that a relationship is necessary for someone to be held vicariously liable, it is crucial to comprehend the many relationships that can subject someone to liability for the deeds of others.<sup>30</sup>

### **Principal-Agent relationship**

The agent's negligent actions will be held against the principal as collateral damage. Section 182 of the Indian Contract Act of 1872 defines a principal and an agent. A person who is hired to perform any act for another person or to represent him in interactions with third parties is defined

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<sup>25</sup> Labor Commissioner, State of California, Department of Industrial Relations, Case No. 11-42020 CT, July 19

<sup>26</sup> Buckley, P. (2021). Bill AB5 and the gig economy. *University of Miami Business Law Review*, 29(1), 49–68.

<sup>27</sup> United States Department of Labor, Fact Sheet 13: Am I an Employee?: Employment Relationship Under the Fair Labor Standards Act (FLSA) (May 2014)

<sup>28</sup> Hall, J. V., & Krueger, A. B. (2018). An analysis of the labor market for Uber's driver-partners in the United States. *ILR Review*, 71(3), 705–732

<sup>29</sup> Uber. (2021, February 24). Your survey results. Uber and Qualtrics

<sup>30</sup> U.S. Bureau of Labor Statistics. (2021, January 22). 2020 annual averages - persons at work in agriculture and nonagricultural industries by hours of work. U.S. Bureau of Labor

as an agent under this statement.<sup>31</sup> In this case, the individual performing the act is referred to as the principal. The legal theory of which states that a person acts through another person is actually acting on their own behalf, is the basis of the principal-agent relationship. The Principal's and the Agent's obligations is joint and several.<sup>32</sup>

### **Position of England**

The king was never held vicariously accountable for any actions in the Common law system, regardless of whether they were carried out at his direction or while performing a job. The adage the king can do no wrong was commonly used in those times.<sup>33</sup> He received complete immunity. No higher officials were held accountable for the actions of their subordinates; only the perpetrator was held accountable.<sup>34</sup> Earlier, there was more of a fellow-servant relationship than a master-servant one between higher authorities and their assistants. Between the government masters and the regular masters, there was a distinction.<sup>35</sup> The crown became the major employer as time passed. Since the law did not allow for the crown to be held accountable for the actions of its servant, there was a need for justice. The monarch was forced to accept responsibility for any negligence perpetrated by its servant as a result of this popular demand.<sup>36</sup> Following the passage of the Crown Proceedings Act, 1947, the crown was made equally accountable for the crimes committed.<sup>37</sup> The UK Supreme Court clarified when employers might be held vicariously accountable for the actions of their employees in the case of *WM Morrisons Supermarkets plc v. Various Claimants*, (2020). The employer in this case was not held vicariously accountable for the employee's deeds. It further clarified the criteria used to determine when the employer will be held vicariously accountable for the employee's wrongdoing.<sup>38</sup> The Supreme Court's observations were taken into consideration.

- Was the wrongdoing committed within the course of work or not?

<sup>31</sup> Section 182 of the Indian Contract Act of 1872

<sup>32</sup> Avtar Singh, Law of Contract Act and Specific Relief Act, Publisher Eastern book Company

<sup>33</sup> Mathew Hale, The history of common law of England Edited by Charles M. Gray, 1739, University Chicago press

<sup>34</sup> Chen, M. K., Rossi, P. E., Chevalier, J. A., & Oehlsen, E. (2019) The value of flexible work: Evidence from Uber drivers. *Journal of Political Economy*, 127(6), 2735–2794

<sup>35</sup> Kuhn, K. M. (2016). The rise of the gig economy and implications for understanding work and workers. *Industrial and Organizational Psychology*, 9(1), 157-162

<sup>36</sup> Malin, B. J., & Chandler, C. (2017). Free to work anxiously: Splintering precarity among drivers for Uber and Lyft. *Communication, Culture & Critique*, 10(2), 382–400

<sup>37</sup> Steinberger, B. Z. (2018). Redefining employee in the gig economy: Shielding workers from the Uber model. *Fordham Journal of Corporate and Financial Law*, 23(2), 577-596

<sup>38</sup> *WM Morrisons Supermarkets plc v. Various Claimants*, (2020)

- Whether the person's motivations were personal or professional.
- Whether the employer's authorised Act and the committed wrongful Act were connected in any way?<sup>39</sup>

The Supreme Court ruled in this case that an employee's act was personal in nature. He exacted revenge on the employer because he had a grudge. The unlawful Act was unrelated to the authorised act.<sup>40</sup> Therefore, the employer won't be held vicariously accountable in such cases. The employer is not always held vicariously accountable. Every time, whether to hold someone accountable or not must be determined based on the merits of the case.<sup>41</sup>

### Position of India

There was a law in England, known as the 1947 Crown Proceedings Act.<sup>42</sup> India, however, still lacks relevant legislation. India's tort law is not codified. If we consider the situation before to the adoption of the Indian constitution, state culpability was mentioned in section 65 of the Government of India Act of 1858.<sup>43</sup> The 1935 Government of India Act contained a similar clause. We have a clause under Article 300 that addresses the state's accountability even after the Indian constitution was adopted. However, the confusion over what actions the government will be held accountable for that has existed since the establishment of the Constitution is the issue.<sup>44</sup> Judges' discretion continues to be a determining factor in the Government's responsibility. In the Motor Vehicles Amendment Act of 2019, the term aggregator has been defined for services like Uber, Ola, etc.<sup>45</sup> It is referred to as a marketplace or digital intermediary that aims to link the passenger and the driver for transportation. This was the first time the Motor Vehicles Act of 1988 applied to these platforms.<sup>46</sup> A revolution has also been sparked in India by the aggregators who keep refusing platform workers the employment status. The Hon'ble Supreme Court

<sup>39</sup> Morales, I. (2021, April 29). Uber and Lyft drivers want to remain independent contractors, but Biden labor chief says they should be employees. Americans for Tax Reform

<sup>40</sup> Frenken, K, Meelen, T, Arets, M, van de Glind, P 2015, 'Smarter regulation for the sharing economy', The Guardian, May 20, viewed 4 June 2017

<sup>41</sup> Graham, M, Hjorth, I & Lehdonvirta, V 2017, 'Digital labour and development: impacts of global digital labour platforms and the gig economy on worker livelihoods', Transfer, vol. 23, no. 2, pp. 135-162

<sup>42</sup> Crown Proceedings Act, 1947

<sup>43</sup> Section 65 of the government of India act of 1858

<sup>44</sup> Article 300 of the government of India act, 1935

<sup>45</sup> Bensinger, G. (2019, October 14). Uber: The ride-hailing app that says it has 'zero' drivers. The Washington Post

<sup>46</sup> Motor Vehicles Act of 1988



recently received a petition requesting social security benefits for gig and platform workers.<sup>47</sup> They urged the Court to order the Centre to provide social security benefits to these employees hired by Uber, Ola, Zomato, and Swiggy.<sup>48</sup> Articles 14, 21, and 23 prohibit human trafficking and forced labour of the Indian constitution has allegedly been broken.<sup>49</sup> Additionally, appeal that everyone, regardless of whether they work in the formal or informal sectors, has a fundamental entitlement to social security.<sup>50</sup> It is anticipated that action will be taken in favour of these gig workers and platform workers regardless of the Hon'ble Supreme Court's ruling on this case.<sup>51</sup> The UK Supreme Court ruled that taxi drivers are employees, not independent contractors.

After a protracted legal struggle, the Hon'ble Supreme Court of the UK finally decided in favour of taxi drivers on February 19, 2021. They argued that cab drivers need to be regarded as employees rather than independent contractors.<sup>52</sup> James Farrar and Yaseen Aslam, two drivers, filed a claim against Uber in the employment tribunal in 2016.<sup>53</sup> They asserted that they ought to be treated as employees or independent contractors. They won, according to the tribunal. Uber, however, filed an appeal with the tribunal.<sup>54</sup> In November 2017, the appeals tribunal upheld the decision of the employment tribunal. Uber reappeared at the court of appeals because it was dissatisfied with the decision.<sup>55</sup> Finally, the British Supreme Court ruled that these two drivers should be treated as employees for the purposes of the Employment Rights Act of 1996,<sup>56</sup> the National Minimum Wage Act of 1998,<sup>57</sup> and the Working Time Regulations of 1998.<sup>58</sup> Therefore, the drivers had the same rights to minimum pay, paid time off, and other benefits as those granted to employees. Uber, however, countered that it just acts as a platform for booking

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<sup>47</sup> *Dynamex Operations West, Inc. v. Superior Court of Los Angeles* (2018) 4 Cal. 5th 903

<sup>48</sup> Zoepf, S. M., Chen, S., Adu, P., & Pozo, G. (2018). The economics of ride-hailing: driver revenue, expenses, and taxes

<sup>49</sup> Article 14, 21, 23 of the Constitution of India

<sup>50</sup> *Pawan Hans Ltd vs. Aviation Karmachari* [2020] Insc 44

<sup>51</sup> Khosrowshahi, D. (2020, October 5). The high cost of making drivers employees. Uber

<sup>52</sup> *Uber BV v. Aslam in London* {[2021] WLR(D) 108}

<sup>53</sup> Employment tribunal appeal by Uber 2016

<sup>54</sup> Ibid

<sup>55</sup> Court of Appeals, 2017 by Uber

<sup>56</sup> Employment Rights Act of 1996

<sup>57</sup> National Minimum Wage Act of 1998

<sup>58</sup> Working Time Regulations of 1998

taxis and does not actually provide transportation services.<sup>59</sup> Drivers are not employed by it, and they are free to set their own schedules and work as it suits them. Although the judgement only affects the drivers, it is one of the important rulings that will ultimately alter how Uber views its cab drivers.<sup>60</sup> The UK Supreme Court made the following observations while issuing its ruling.

- Uber has ultimate discretion over the prices that customers will pay. Since they are not self-employed, drivers are not allowed to set their own rates.
- Drivers have no authority to change the terms and conditions, which have been set by Uber. They only have two choices: accept them or choose another app.<sup>61</sup>
- Uber has the right to end the driver's employment with the business. It has the exclusive authority to review user-submitted ratings of drivers. If a driver doesn't keep up with the average ratings, Uber will end their driving contract.<sup>62</sup>
- Uber has the right to choose the driver's ride, which is an example of one of the characteristics of an employment relationship, namely, subordination. Uber is the only party with the authority to sever ties with a driver if they consistently turn down requests for rides.<sup>63</sup>

The UK's Hon'ble Supreme Court ruled that the drivers are workers and not employees, taking into account all the aforementioned considerations. It also mentioned that the Employment Rights Act of 1996 was created specifically to safeguard workers' rights.<sup>64</sup> The contract between Uber and the drivers is not the real issue; rather, it is immoral to take advantage of the Uber drivers. There were certain presumptions made about the effects of this judgement on India after it was rendered.<sup>65</sup>

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<sup>59</sup> Morales, I. (2021, April 29). Uber and Lyft drivers want to remain independent contractors, but Biden labor chief says they should be employees. Americans for Tax Reform

<sup>60</sup> Kelly, P. E. (2019, May 14). Worker or independent contractor? Uber settles driver claims before disappointing IPO. Newstex

<sup>61</sup> Bales, R. A., & Woo, C. (2017). The Uber million dollar question: Are Uber drivers employees or independent contractors. *Mercer Law Review*, 68(2), 461-488.

<sup>62</sup> Hall, J. V., & Krueger, A. B. (2018). An analysis of the labor market for Uber's driver-partners in the United States. *ILR Review*, 71(3), 705-732

<sup>63</sup> Malin, B. J., & Chandler, C. (2017). Free to work anxiously: Splintering precarity among drivers for Uber and Lyft. *Communication, Culture & Critique*, 10(2), 382-400

<sup>64</sup> Waymo LLC v Uber Technologies, Inc et al [2017] US Case No. 2017-2235, 1

<sup>65</sup> Meyer v. Uber Technologies, Inc., [2017] US Case No. No. 16-2750 (2d Cir. 2017)

### **How the UK's Supreme Court verdict would impact India**

Over the past few years, the COVID pandemic has resulted in an increase in gig workers, independent contractors, and employees. People are more likely to seek part-time employment possibilities now because there is less opportunity available in the formal sector.<sup>66</sup> Some people even hunt for side jobs since their full-time work isn't paying them well enough. Do you realise that as these types of workers proliferate, exploitation is also expanding at a similar rate? They frequently aren't given access to the benefits afforded to employees because the businesses don't treat them as employees.<sup>67</sup> These workers have long demanded that employers like Uber take into account providing them with benefits comparable to those provided to employees and that they be treated similarly. But Uber is not yet prepared to acknowledge them.<sup>68</sup> The UK Supreme Court's ruling, however, provides evidence for the cab drivers' status as employees. The ruling has given taxi drivers the opportunity to think about their employment rights. Employer-employee relations are becoming less clear due to the usage of technology as a tool.<sup>69</sup> The personnel who have been primarily affiliated with the major tech platforms have come under more scrutiny from the Indian Central Government.<sup>70</sup> The Government already made the rule requiring minimum salaries for workers, including those working for Uber, mandatory in its budget. Employees of TNCs will be protected by ESIC, or Employment State Insurance Corporation. These businesses (TNC) will be required to make a deposit with the state insurer of a set amount.<sup>71</sup> The federal government continuously examines the terms and conditions of these major internet platforms to ensure that employees are not being taken advantage of. The regulations for ride-hailing businesses were also developed by the government.<sup>72</sup> These regulations state that TNCs are prohibited from making drivers work more than 12 hours per day. They must also charge the 20% maximum service fee. It also asked that insurance be given to the

<sup>66</sup> Spence, L. (2016). Small business social responsibility: Expanding core CSR theory. *Business and Society*, 55(1), 23–55.

<sup>67</sup> Scholz, T. (2017). *Uberworked and underpaid: How workers are disrupting the digital economy*. John Wiley & Sons

<sup>68</sup> Redfearn III, R. L. (2016). Sharing economy misclassification: Employees and independent contractors in transportation network companies. *Berkeley Tech. LJ*, 13, 1023

<sup>69</sup> Leana, C. R., & Feldman, D. C. (1995). Finding new jobs after a plant closing: Antecedents and outcomes of the occurrence and quality of reemployment. *Human Relations*, 48(12), 1381–1401

<sup>70</sup> J. V., & Krueger, A. B. (2018). An analysis of the labor market for Uber's driver-partners in the United States. *ILR Review*, 71(3), 705–732.

<sup>71</sup> Department of Finance, Services & Innovation (NSW) 2017, *Developments in the collaborative economy in NSW*, prepared by Deloitte Access Economics, Sydney

<sup>72</sup> Cohen, MJ 2016, 'Sharing in the new economy', in MJ Cohen (ed.), *The future of consumer society: prospects for sustainable consumption*, Oxford University Press, Oxford.

drivers. It was further stated that, even during periods of strong demand, the platforms could only charge a specified maximum amount.<sup>73</sup> There have been several occasions in India where the driver-partners have spoken out against the businesses Ola and Uber. The Delhi Commercial Driver's Union approached the Delhi High Court with the first legal challenge in 2017. They claimed that by failing to treat the drivers as employees, these businesses (TNCs) exploit the drivers.<sup>74</sup> The driver's union alleged in a lawsuit that drivers enrolled with these applications are even denied their basic rights or compensation in the event of an accident or fatality. However, the degree of control they exert makes it clear right away that these drivers are workers.<sup>75</sup>

### Conclusion

TNCs are avoiding taking accountability off their shoulders by refusing to treat the cab drivers as employees. We examined Uber's policies and terms of service for its drivers. These show that the cab drivers are not independent contractors but rather are employees.<sup>76</sup> However, Uber must modify its terms and conditions in order to treat the drivers as independent contractors, which should benefit the drivers.<sup>77</sup> The freedom to decide on their ride and set their charges, and Uber shouldn't have the power to end the employment arrangement.<sup>78</sup> If Uber can do all of this, drivers won't object to being viewed as independent contractors. This policy is nothing more than exploitation if Uber does not think about changing it.<sup>79</sup> The employer-employee link between taxi drivers and transportation network businesses like Uber, Ola, Lyft, etc. has been accepted by courts as far away as the Netherlands and the UK's Supreme Court. Why are the TNCs' eyes closed? Why don't they recognise and comprehend that their cab drivers are employees? It's high time for these businesses to adopt the same perspective.<sup>80</sup>

<sup>73</sup> Fair Work Ombudsman 2017b, Independent contractors and employees, Fair Work Ombudsman, Canberra, viewed 24 September 2017,

<sup>74</sup> International Labour Organisation 2017, Decent Work, ILO, Geneva, viewed 19 September 2017

<sup>75</sup> Irani, L 2015, 'Difference and dependence among digital workers: the case of Amazon Mechanical Turk', *South Atlantic Quarterly*, vol. 114, no. 1, pp. 225–234

<sup>76</sup> Ride Share Drivers' United 2017, Request for FWA to launch an investigation into Uber suspected wage fraud, Ride Share Drivers' United, viewed 2 September 2017

<sup>77</sup> Ravenelle, A 2017, 'Sharing economy workers: selling, not sharing', *Cambridge Journal of Regions, Economy and Society*, vol. 10, pp. 281-95

<sup>78</sup> Morales, I. (2021, April 29). Uber and Lyft drivers want to remain independent contractors, but Biden labor chief says they should be employees. *Americans for Tax Reform*

<sup>79</sup> Helling, B. (2021, September 9). How many Uber drivers are there in 2021? *Ridester*

<sup>80</sup> Uber. (2021, February 24). Your survey results. Uber and Qualtrics

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