

Occupational Injury Protection Model Analysis for Platform Workers

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Abstract: The platform economy has developed in a high speed in recent years in China, but during this dramatic increase of these companies, the occupational injury of platform workers has being a serious problem. The typical example is that the insufficient protection of the rights of the takeaway riders. Research shows that takeaway riders have a great risk of occupational injury and are in urgent need of institutional protection, but due to the Chinese work-related injury insurance system is "tied" to traditional labor relations, as well as the unclear employment relationship between platform enterprises and platform workers, they cannot obtain benefits from the work-related injury insurance system. For the better development of the platform economy and realize the benefits of both labor and capital, various explorations have been made in recent years to protect platform workers. According to the pilot experiences, Jiujiang of Jiangxi Province, Wujiang of Suzhou are independent of work injury insurance system, and gradually developing into a model combining the both.

1. Introduction

During the process of social digital transformation, and with the contribution of internet information technology, Platform economy has sprung up and became a driving economy in the post-epidemic era, who drives intensive labor to provide consumer services^[1]. Which also becomes a stabilizer and power source for full employment and continued economic growth. Until 2020, the number of people who work for platform companies has reached 84 million, an increase of 4% comparing last year. Platform industry based employment has become an important mode in China. It plays a significant role in promoting cross over integration with other industry like catering industry and transportation sector, also it helps absorb the urban and rural surplus labor in China. However, the Chinese basic insurance system and labor relations are in a tied relationship for maintaining the stability of labor laws and social security policies. Which is leading that we have qualitative needs for employee insurance especially in work-related injuries insurance, because a large number of platform workers don't have a legal labor relationship employment with platform companies. As two typical and major business sector under the platform economy, Car-hailing drivers and Takeaway riders are the worst victims of occupational injuries. According to an investigation in Fujian Province in China, most of the takeaway riders have suffered accidental injuries (such as traffic accidents, stair fall accidents etc.) during the process of delivering orders,

and 96.21% of riders believe that they are facing a great risk of occupational injury. However, after the occurrence of the injury accident, the platform will only play a charitable role of the advance payment, which makes a large number of migrant workers of takeaway riders more likely to become impoverished and return to poverty due to injuries. In terms of personal financial condition, occupational risks etc, comparing with car-hailing drivers, takeaway riders are more vulnerable. There is no compulsory traffic insurance as a means of risk transfer when causing damage to a third party, which increase their pressure and security risks. Until 2021, Chinese government has successively promulgated six official documents concerned the construction of occupational injury protection system for platform employees. The Chinese Ministry of Human Resources and Social Security had clearly put forward that "Platform enterprise whose main business is in travel, takeaway, instant delivery, inter-city freight etc. ought to prepare and organize an occupational injury insurance system for their flexible employment employees to guarantee their rights. Despite the official document has been learned by the municipal governments, they don't carry out any policies for establishment of the insurance system for platform workers, the ambiguity of the guidance is the key problem. What we could do considering the current system? Occupational injury insurance system should integrated into the traditional occupational injury insurance system? Local authority should construct a new commercial insurance managed by local government? Or it could be a independent and new type of social insurance for platform workers? In 2022, Chinese government has put forward new experiments in some prefecture level cities for establishing the occupational insurance system. This article will analyse the dilemma and model choice of occupational injury protection for platform workers. Plus, it will also explore and try to build occupational injury insurance for platform workers in the context of Chinese social and economic development, which the insurance system is designed to solve the urgent issue of occupational injury protection needs for platform employees.

2. The current situation of occupational injury protection for platform workers: takeaway riders as example

Takeaway riders are an important part of platform employment and according to the different labor relationships, they could be divided into two types: full-time and crowd-sourcing^[2]. The main purpose of the crowd-sourcing is to reduce the pressure of the food order delivery platform during peak periods, the payer register platform enterprises who develop the software or digital applications and also responsible to operation and maintenance, such as Fengniao Zhongbao or Humming birds Crowd-sourcing, Meituan crowd-sourcing, and then the riders can follow the system prompts to receive orders and deliver them. Whether to accept orders or not, the number of orders and type of orders are completely determined by the rider independently. Although the platform will formulate points rules for profit inducement, it does not manage and control the riders directly. A delivery cooperation agreement with a rider. The riders sign the contracts with the third party who is human resources agent, not the platform itself, so the labor relationship between platform company and the takeaway riders is weakly tied. Although the path of both types of riders involved in labor is not the same, but there is no such big difference under the command and management of the platform system during the takeaway delivery process. Both of them are facing the occupational injuries which leads to a group problem.

2.1 The current situation of occupational injury protection for takeaway riders: The supply of commercial insurance systems is insufficient

Almost every delivery rider has experienced a minor or serious occupational injury. After seeking medical treatment for an injury accident, 8.28% of riders chose to pay the medical expenses

by themselves, and 77.24% of riders chose to ask the platform company, local agent for reimburse of the medical expenses. From the data, it is clear that most of the riders have had a clear awareness of the protection of workers' rights, even the legal relationship between the two parties are not clearly recognized. Due to the platform companies' employment relationship, it's still not a legalized labor relationship in China. So, as an employer, the platform enterprises are still not required to bear social insurance for riders. But in response to the government's call, the platform will deduct a certain fee from riders' daily commission to purchase a commercial insurance, which usually the price is not less than 3 Yuan. Specifically, for the full-time riders, they are insured by employer liability insurance which is bought by platform company's local partners, and the crowd-sourced riders are insured by the casualty insurance and third party liability insurance by the human resource agent. So, we could see the single employer responsibility insurance is actually an occupational injury protection "trap" in platform employment.

It is not for the transfer of risk for the practitioner, but for the platform companies and their local partners to avoid the risk. This employment help them transfer the risk of occupational injury to rider or insurance company, and avoid their own responsibility. Plus, due to the values of commercial insurance enterprise and the principle of reciprocity, the amount of premiums paid by the insured is related to the insurance treatment. So, low premiums is hard to avoid the various shortcomings, such as narrow scope, few guarantee items, and low level of treatment.

2.2 Occupational injury protection needs for takeaway riders: Hard to integrate into the public employment injury insurance system

Chinese regulations of employment injury should be applied under three main situations: The "three work principle" for the determination of work-related injuries: working hours, workplaces and reasons for work. The high flexibility of platform employment means that workers have more autonomy in working hours and workplaces, which weakens their personal affiliation with platform companies^[3]. This makes it more difficult and costly for the platform to maintain workplace safety. The scheme of incorporating platform workers into the work-related injury insurance protection system could make the most rapid use of the existing system resources and achieve full coverage of occupational injury protection in new formats. However, it will also lead to the downgrading of employment injury insurance to be applied by various forms of employment, this will make the work-related injury insurance fund unbearable^[4].

3. Model comparison and experience summary

3.1 Comparison of the first round of pilot models: based on whether to integrate into employment injury insurance

At present, there are two types of occupational injury protection models that have been implemented: they are included in the management of work-related injury insurance, or they are independent of the management of work-related injury insurance. Among the independent models that have been implemented, only the Jiujiang's and Wujiang's model have some reference values. According to the local bureau of human resource and social security, Jiujiang City has implemented "occupational injury insurance for flexible employees" on a trial basis. Based on the principle of voluntary participation, the flexible employment personnel can insure themselves directly with the social insurance agency without the participation of third-party commercial insurance, which is closer to set up a similar independent social insurance system in addition to the work-related injury insurance system.

3.2 Summary of the experience of the first round of pilots

Firstly, the treatment payment of the employer has not been effectively filled. Secondly, even under formal employment injury insurance system, platform workers are rarely treated according to the work-related injury recognition clause, and also some related diseases that may be suffered due to occupational activities are not included in the scope of occupational injury determination.

3.3 The second round of pilot programme begins: The occupational injury insurance system takes shape

Firstly, in terms of system characterization, all localities have reached a consensus that the occupational injury insurance system should be socialized, and adopt the configuration of "government-led + bureau of social insurance/commercial insurance company" in the handling mode^[5]. Secondly, in the construction of supporting institutional facilities, the importance of the construction of the information system has been highlighted. Thirdly, during the process of design of the system, it focuses on four main points: the group should be insured, the payment method, and the identification of occupational injury. Each pilot city basically defines the new form of employment personnel as labor service payers who register and receive orders through the platform, provide labor such as driver, takeaway, instant delivery and inter-city freight transportation in the name of the platform enterprise and obtain remuneration or income. And also the officiate clarify that the platform enterprise shall bear the four types of responsibilities: declaration of employment to bureau of social insurance, payment of insurance, occupational injury prevention, and assistance in handling the insurance documents. The government allow duplicate insurance, and further, it proposed that the identification of responsible entities: if an occupational injury accident happened, the platform enterprise who sent the order task which the task is being executed at the time of occupational injury shall bear the platform responsibility for occupational injury protection.

The contribution of the second round of pilot mainly lies in responding positively to the model dispute generated by the first round of pilot, combining the existing institutional experience of work-related injury insurance with the labor characteristics of the new form, and putting forward a more comprehensive and feasible scheme for the construction of occupational injury protection for platform workers, such as replacing self-pay or mixed payment with platform's payment, replacing HR agency or personal declaration with unified report by the platform company, and replacing a fixed payment for one year period with dynamic payment on a monthly basis, expanding the scope of occupational injury recognition and the types of treatment payment items^[6].

4. Construction of occupational injury insurance system for platform workers

4.1 Objects of protection and basic principles

From the view of overall design, the platform practitioner is the important group to promote economic, and it is also a typical employee group of the low-income. Adhering to the socialized insurance's nature of occupational injury insurance is an important guarantee and powerful starting point to ensure that platform workers protecting their social insurance rights as members of this society.

The employment injury insurance system should be built on the principle of compulsory participation, and the system should define the object of protection as flexible employment personnel in new forms of employment who register and receive orders through the platform, provide labor services such as takeaway, instant delivery, transportation etc. in the name of the platform and obtain remuneration or income, and the system cannot exclude the applicable criteria,

such as household registration, age, length of employment in the past, average working hours, and position type.

4.2 Regulation of insurance payment

Considering the second round of pilot programme results, the participation method of insurance for platform workers, we thought the most practical practice is to purchase insurance by order. The platform needs to report basic information such as order takers and order delivery information to the designated information platform on a daily basis, and platform company should declare and pay the occupational injury insurance premium to the appointed tax authority at the end of the fixed period, which will be transferred to the local occupational injury insurance bank account. The social security agency can use the big data to record their insurance information. And this is to ensure that employees can participate in injury insurance by phases as well the insurance payment records can be combined and converted into the final standard of treatment.

4.3 Scope of occupational injury determination

Regarding the identification of occupational injuries, we think that there could be two feasible paths: First, take the provisions of the *Chinese Regulations on Work-related Injury Insurance* as a reference and combine the characteristics of platform employment to contextualize the rules for identifying work-related injuries. For example, in the draft issued by the provincial government of Guangdong Province, Hainan Province and Shanghai, the so called "working time" is specifically defined as "the period of execution of order tasks from platform", and the time span of this period can be set from the acceptance of a platform order to the completion of this order, it is up to 1 hour maximum which should be still online in a working state.

4.4 Coverage items and levels

During the trial period of the system, occupational injury insurance should focus on medical expenses and basic living cost. The protection items can be tentatively determined as medical and rehabilitation expenses, living cost, auxiliary devices, caring expenses, disability allowances, invalidity allowance and compensation for death.

4.5 Construction of supporting institutional measures

Firstly, the construction of the national occupational injury security information system is urgent. The occupational injury security, as a part of social security, is undoubtedly a type of basic public services, and "promoting equalization with standardization" is not only an important way to build a basic public service system, but also an inevitable requirement to achieve convenient, fair and efficient supply of occupational injury insurance system.

Secondly, the compulsory third-party liability insurance construction for platform workers shall be carried out. Under the multiple goals of promoting the stable development of the platform economy, reducing the occupational injury risk of platform workers and resolving public risks, the most appropriate approach should be the compulsory third party liability insurance for takeaway and instant delivery if we take reference to the mandatory liability insurance for traffic accidents, it could replace civil liability with compulsory insurance which contributes the replace personal compensation with professional claims. Since the specific traffic risk is strongly related to platform employment risk, the platform enterprises should continue to pay the insurance payment, and the insurance fund should pay the traffic accident compensation instead of the rider. So that it helps

reducing the burden of judicial litigation, dispersing the compensation pressure of the platform, and realizing the socialization of platform employment risk management.

Thirdly, the concerned labor union could be set up. The reason for the frequent traffic accidents of platform workers is also that the platform increases their labor intensity through algorithm control and implements profit inducement through the piece-based remuneration rule. And the platform workers are driven by both external system's urging and personal economic motivation, so that their relative working hours are extended, which increases not only the incidence of occupational diseases and overwork deaths, but also increases the risk for traffic accident. The individual power of platform worker is very small, and they must engage together to argue for more rights with platform enterprises through collective negotiation. However, due to the unclear nature of the platform employment relationship, the legitimacy of joining in the platform enterprises' labor union is very insufficient in China, and also the trade unions are also very underdeveloped in China, which leads to a very weak collective negotiation. All these situations shows that it could not truly protect the rights and interests of workers.

5. Conclusion

As a result of rapid development of digital economy, the platform economy plays a significant role in expanding the scale of employment and stabilizing economic development. But the ambiguity of the platform employment relationship with their workers leads to the lack of legitimacy to apply the work injury insurance system, and also there is no ready-made plan to solve the problem^[7]. If the traditional labor relationship and work injury insurance is unbound, it would make damages to the current social insurance system before the governmental reform for social insurance. However, we could establish an independent occupational injury insurance system within the current social insurance system taking reference of the traditional work injury insurance model, and formulate special rules which are based on the characteristics of platform employment in terms of payment rules, identification of occupational injury, guaranteed items, benefits and payment, and managing mode. When taking into account the principle of efficiency as well as ensuring the socialization of occupational injury insurance, we could not forget to introduce nongovernmental sectors to build together.

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