



REPORTAGE | TALKING POINTS | IDEAS | INSIGHT | THE BOTTOMLINE

# WHEN THE WORKPLACE IS INJURIOUS TO HEALTH

The construction sector is a huge employer but also one of the most unsafe. Are reforms a far-fetched dream?

Sumant Banerji

sumant.banerji@livemint.com

NOIDA

35-year-old Pappu Singh lies in a hospital bed in Noida's Sector 30, wondering if death would have been a better option. "At least my family would have received ₹5 lakh," he says. His eyes well up. "I am damaged for life now...good for nothing...a liability for everybody."

On the morning of 20 September, Singh was one of the 12 workers repairing a drain next to the boundary wall of Jal Vayu Vihar, a residential society in the city's Sector 21. Weakened by overnight rain, the wall collapsed on them.

Four workers, including three from Singh's Vicholna village in Badaun district of Uttar Pradesh, died on the spot. Singh suffered a fracture on his right thigh and was operated upon on 26 September. The district authorities announced a compensation of ₹5 lakh for the deceased but besides the free medical treatment, Singh gets little else.

"Please do something for me. The future looks very dark," he pleads.

His tale is not an isolated one. It is one that cuts across thousands in the construction industry. Lack of safety mechanisms, blatant flouting of laws and a general disregard for the rights of workers at the very bottom of the pyramid have created a deadly cocktail. Workers such as Singh see no way out.

Barely 10 days after the Jal Vayu Vihar incident, on 30 September, Shamsheer Rehman, another construction worker, fell to his death in a 40-feet deep pit at a construction site near Delhi's Safdarjung Railway station. Rehman, who is from Bihar, was welding at the site when a huge pile of loose soil around him caved in, triggering his fall into the pit.

Similarly, in February this year, the collapse of a giant slab at an under-construction site in Pune's Yerawada area resulted in the death of five workers. All of them belonged to Katihar district of Bihar.

In all the three incidents, the workers affected were migrants. They form a substantial chunk of the 50 million employed in construction activities, a sector that accounts for over 8% of the country's GDP. As per the National Crime Records Bureau (NCRB), 1,630 workers lost their lives in 2021 due to the collapse of a structure. The number inflates manifold to over 17,000 when the cause of death is extended to falls. It makes working in the construction industry one of the most dangerous professions in the country. According to some experts, even this sobering tally is an underestimate.

"This is not even the tip of the iceberg. A vast majority of the workers in the construction industry are not registered. So, they don't show up in the government records," says Chandan Kumar, national coordinator, Working People's Charter (WPC), a coalition of organizations that works on labour issues in India.

The poor state of health and safety of workers in the sector is not due to a lack of adequate legal framework. At least a dozen acts, comprising over three dozen laws, seek to regulate the industry and empower workers by providing them with a safety net. The question: why don't they work?

## WEAK ENFORCEMENT

Prominent regulations include the Building and Other Construction Worker's Act (BOCW Act 1996), the ESIC Act, the Employees Compensation Act, the Contract Labour Act, and the Industrial Disputes Act (see chart). The problem lies in non-compliance, across all levels.

"India is very good at formulating laws. It's in the implementation that things go awry," says Kumar of WPC. "Workers can unilaterally lodge a complaint that

Contractors face competitive pressures. They are forced to make money by cutting costs in areas that are the easiest—quality, health and safety.

The biggest example is the underutilization of cess collected as part of the Building and Other Construction Workers Welfare Cess Act, 1996 (1% of total construction cost). "A large part of the cess lies unutilized in Maharashtra alone which should be used to provide some support to the workers," Kumar says. "At the national level, it will be much higher."

Data from the ministry of labour and employment shows over ₹43,000 crore—



File photo of construction workers at a building site.

more than half the overall cess—is unspent in India.

Child labour is also rampant and most workers don't get the minimum wages. A survey conducted by WPC earlier this year found that only 5% workers receive the minimum wages as stipulated by the government of Delhi. The reality in other parts of the country is likely even worse.

The government's new labour code promises a number of reforms and seeks to move workers into the organized workforce so that benefits such as social security can be accessed. The four codes—on Wages, Industrial Relations, Social Security, and Occupational Health and Safety—will replace 29 existing labour laws, an attempt to also facilitate ease of doing business for corporates.

Of the four codes, the wage code was notified on 8 August 2019 and the three others, on 29 September 2020. However, since labour is a concurrent subject, the rules are required to be framed by both the Centre and the state governments.

"Only 12 states have published their rules for the occupational health and safety code so far," says Hemant Sethi, country head, British Safety Council, a non-profit body.

## A QUESTION OF COSTS

The main motivation for the industry to flout or not adhere to the laws boils down to two things—cost and a skewed demand-supply equation. The willingness of the authorities to look the other way only acts as an enabler.

Meanwhile, the structure of the industry, with thousands of sub-contractors under the primary project developer or builder, creates a smokescreen that comes handy in case of a mishap.

India has one of the lowest costs of construction in the world but not due to lower raw material prices—domestic steel and cement prices are benchmarked to

global rates. Experts say it is the multi-layered contracting system (the army of contractors and sub-contractors can range between 200 and a 1,000 for a project) that pushes down costs.

In the process, critical parameters on health and safety, such as registration of workers, minimum wages, safety protocols or use of protective gear, are compromised. Everything adds to the cost and for a sub-contractor down the value chain,

every penny counts.

"The practice of L1 (lowest cost bidder) in business puts the focus on cost and has a bearing on quality, health and safety. In the lowest cost estimate system, companies that do not have the necessary experience and financial capability are taking up projects beyond their means. As a result, tenders are being won at ridiculous costs—20-30% below estimates," says Vikramjiet Roy, managing director, Maccaferri India, an engineering solutions company.

"The aggressive competitive bidding has pushed costs down to unsustainable levels. It is almost 50-60% less than a comparable economy like Vietnam or Indonesia," Roy adds.

Contractors are thereby forced to make money by cutting costs in areas that are the easiest—quality, health and safety. While contractors are aware of the risks, they face competitive pressures. If one contractor does not meet the cost criteria, there are plenty others waiting to grab the opportunity. The market for contractors, in short, is not supply-constrained.

The same is true for workers and this mismatch is at the core of their safety woes.

"The worker doesn't have a choice either on wage negotiation or safety aspects. There are too many unskilled and unemployed people in the country. So, supply is never an issue," says Roy. "When something happens, the big guy with the muscle gets away. It's the small guy who pays the price."

## RAY OF HOPE

Millions of migrant workers walked back to their villages as the first lockdown in April 2020 brought all construction projects to a standstill. These workers were mostly abandoned by their contractors.

The reverse migration, widely captured in photos and videos circulated on social media, caused an uproar. Facing criticism, a clutch of companies came together to better understand the issues faced by informal workers. These were companies affiliated with national trade bodies like the Confederation of Indian Industry (CII) and the Federation of Indian Chambers of Commerce & Industry (Ficci).

This effort took the shape of a 'social compact project' managed by Mumbai based non-profit organization Dasra along with two other NGOs—Udaipur-based Ajeevika Bureau and Ahmedabad-based Centre for Social Justice.

The project seeks to identify the work

## MINT SHORT STORY

### WHAT

Lack of safety mechanisms, blatant violation of laws, utter disregard for rights of workers at the bottom of the pyramid have created a deadly cocktail for construction workers.

### AND

The structure of the industry, with thousands of sub-contractors under the primary project developer or builder, creates a smokescreen in case of any mishap.

### NOW

Creating a rating system for contractors could make a difference—similar to how cab drivers are rated by users on cab aggregator platforms. A poor rating can mean loss of business.

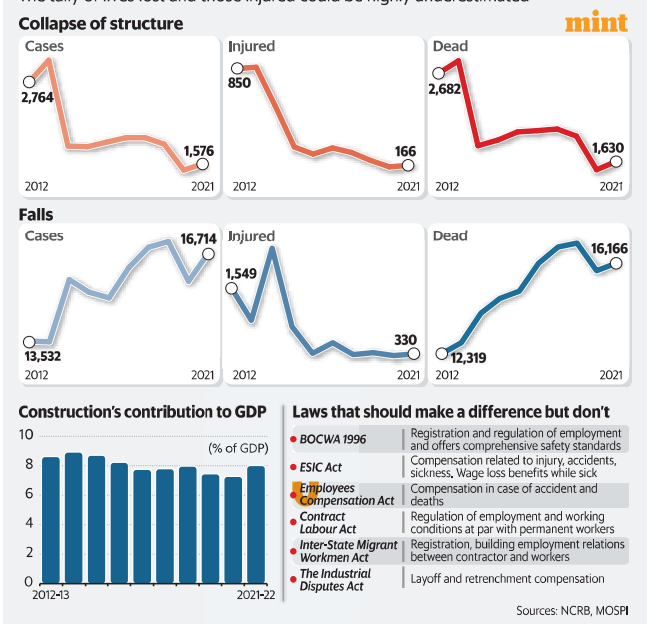
force that is invisible, even to the large corporate that employs them, because of the industry structure we spoke about earlier. The project now covers 40 large corporates as well as supply-chain companies. It claims to have mapped over 50,000 workers in less than two years—a tiny drop in the ocean but a start nevertheless.

"Health and safety standards in projects run by large companies are much better. They understand the reputational risk of an unsavoury incident. But the key learning for us is that even the best of them is unaware of exactly how many workers engage in their chains through invisible sub-contractors, increasing the challenge of ecosystem-wide compliance," says Sonvi Khanna, associate director at Dasra.

The project uses a toolkit comprising 30 parameters on which it rates the companies. For instance, companies are evaluated on the number of its temporary and permanent workers, gender profiles, health of workers, and wages among others. Feedback on loopholes found is communicated to the company.

## SORDID TALE

The tally of lives lost and those injured could be highly underestimated



"This is just a start but one we feel confident of. The journey is going to be long, with constant co-solutioning and co-ideation between industry and worker organizations. We are working to onboard 150 large corporates and trigger impact for one million vulnerable workers over the next four years," Khanna says.

Other experts also feel that creating a rating system could make a difference—similar to how cab drivers are rated by users on cab aggregator platforms. A poor rating can mean loss of business.

"A star rating for contractors could be one solution," says Vinayak Chatterjee, co-founder and chairman, Feedback Infra. "The rating could be based on many factors including the health and safety track record of the workers. The rating could also be one of the parameters in the tendering process. There is no guarantee it will work, or if everybody will agree to come on

board. But, it is worth a try," he adds. Nonetheless, change will not come in a jiffy.

Back at Jal Vayu Vihar in Noida, a heap of debris is the only sign of the tragedy of 20 September. As at a crime scene, the police have cordoned off the area but only 200 metres ahead, similar construction work on the drain continues. Just like Pappu Singh, the workers are all migrants toiling away to make ends meet.

The poor state of health and safety of workers is not due to a lack of adequate legal framework. The problem lies in non-compliance.

"It was their bad luck. Their time had come," says Bablu, a construction worker, remembering the fateful morning. "Not that we are lucky. Else, we would not be here."

Bablu wouldn't give his surname, or age. He looks rather young. Possibly, he is a teenager who should be in school. But losing this job is not an option for him, or any other migrant working on the drain. They know the safety hazards. They simply ignore the writing on the wall.