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Court Finds Gig Economy Workers Are Protected by Employment Laws

A court decision released on August 28, 2019 finding that a food delivery driver was a deemed employee continues the trend of judgments in China finding that workers in the gig economy are protected by employment laws.

In the recent case, Li Jie drove for a delivery company on behalf of the Meituan app. He was one of an estimated 2.7 million Meituan drivers. After Li died while making a delivery, his wife sued the delivery company to confirm that an employment relationship existed between Li and the delivery company. A successful suit would allow her to proceed with an occupational death claim.

A district court in Suzhou, Jiangsu province found that an employment relationship existed because:

- the company's registered business scope includes the food delivery business
- the company assigned Mr. Li to make orders
- the company paid Mr. Li delivery fees on a monthly basis
- Li was effectively required to work fixed hours pursuant to a service agreement between the company and Meituan.

An intermediate court upheld the district court decision, finding additional factors to support a finding of an employment relationship. The intermediate court found that Mr. Li was required to wear a Meituan uniform, Mr. Li's performance was included under the app's delivery rating system, and that a "service contract" signed between Mr. Li and the delivery company was in substance an employment contract.

In recent cases where courts have found drivers were not employees, key considerations were that drivers could refuse order or rides, the working relationship is more casual without written contracts, and drivers merely registered for work on an app without the involvement or management of a third party delivery company.