



## MENTAL HEALTH LEAVE IN INDIAN LABOUR LAWS: A CASE FOR LEGISLATIVE RECOGNITION AND REFORM

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### ABSTRACT

*The mental health crisis in Indian workplaces has deepened post-COVID, with rising burnout, anxiety, and stress among employees nationwide.<sup>1</sup> Despite physical illness being addressed in law, there exists no statutory provision for mental health leave, a recognised mechanism in several other countries.<sup>2</sup> This paper examines the disparity between lived workplace mental health realities and statutory recognition in Indian labour law. It analyses current sick-leave provisions under central and state laws; the Mental Healthcare Act, 2017, which affords rights but falls short of workplace guarantees; and corporate pilot initiatives by companies like Meesho and Urban Company. Through judicial mention of mental health and international models from the UK and Australia, the study identifies major policy gaps. Statistical data and media cases illustrate the human cost of ignoring mental health at work. Finally, the paper proposes a structured legal framework comprising amendments to leave laws, mandatory mental health leave entitlements, and employer guidelines embedded in CSR norms. By highlighting both legal and ethical imperatives, the research argues that adopting mental health leave is not mere accommodation—it is essential for upholding employee dignity, equality, and the right to health.*

**Keywords:** Mental Health Leave, Indian Labour Law, Workplace Stress and Burnout, Mental Healthcare Act 2017, Employee Rights and Dignity.

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<sup>1</sup> World Health Organization, Mental Health and COVID-19: Early Evidence of the Pandemic's Impact (WHO 2022).

<sup>2</sup> International Labour Organization, Mental Health at Work: Policy Brief (ILO 2022).

## INTRODUCTION

India's workforce is witnessing growing psychological burnout. UNESCO cites a 25 % global rise in anxiety and depression since the pandemic.<sup>3</sup> Indian employees report rising stress, with platforms like LinkedIn and media highlighting mental health concerns among youth workers.

Yet Indian labour laws grant medical or sick leave largely for physical illnesses, offering 8–24 paid days annually under central and state regulations.<sup>4</sup> Despite the Mental Healthcare Act, 2017, affirming equality between mental and physical illness under Section 21(1),<sup>5</sup> mental health conditions have not translated into workplace entitlements.

Concepts like mental health leave—time off specifically for psychological recovery—are recognised in other jurisdictions, but in India remain confined to private company policies.<sup>6</sup> This gap raises critical questions: Why is mental well-being neglected in statutory leave laws? Can Indian law affirm mental health parity with legal backing?

This paper explores these questions, offering a roadmap to conceptualise and legislate wellness-based leave provisions. It argues compellingly that:

1. India must extend its legal framework to include mental health leave.<sup>7</sup>
2. The right to disconnect and trauma-informed workplace policies.<sup>8</sup> They are essential complements.
3. A formal legal guarantee would enshrine the constitutional Article 21 right to health and dignity.<sup>9</sup>
4. Legal Status of Sick Leave in India
5. Under prevailing labour statutes (Factories Act; Shops & Establishments Acts), employees are statutorily entitled to sick leave. As per HR guides and HRKatha

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<sup>3</sup> UNESCO, UNESCO Science Report: The Race Against Time for Smarter Development (UNESCO Publishing 2021)421

<sup>4</sup> India Briefing, Overview of Leave Policy in India: Types, Eligibility, and Compliance (2023).

<sup>5</sup> Mental Healthcare Act 2017, s 21(1).

<sup>6</sup> WHO, 'Mental Health in the Workplace' (2021) <https://www.who.int/publications-detail/mh-workplace> accessed 27 July 2025.

<sup>7</sup> Shalini Bhargava Ray, 'Mental Health Leave and Indian Labour Law: A Legal Gap in Need of Reform' (2022) 5(1) NUJS L Rev 45.

<sup>8</sup> ILO, 'Workplace Stress: A Collective Challenge' (International Labour Organization, 2016) (<https://www.ilo.org/global/topics/stress-at-work>) accessed 27 July 2025.

<sup>9</sup> Francis Coralie Mullin v Administrator, Union Territory of Delhi AIR 1981 SC 746 (SC).

summaries, a minimum of 12 fully paid days (and up to 24 with reduced pay) is standard annually. For absences exceeding two days, employer certification is required.

However, leave justification must cite physical illness, and mental health conditions remain excluded. Even in cases of “presenteeism”—employees mentally unwell but physically at work—there are no legal protections or guidelines for restorative leave. Sick-leave regimes also fail to separate serious mental health needs from common stress or burnout scenarios.

The new Central Labour Code framework, while consolidating leave laws, does not recognise mental health leave specifically. This leaves a vacuum: Indian workers who need short-term mental breaks have no guaranteed legal protection or recovery time.

### **MENTAL HEALTHCARE ACT, 2017: SCOPE & LIMITATIONS**

The Mental Healthcare Act, 2017, promotes equality of mental and physical illness and decriminalizes suicide attempts under Section 115.<sup>10</sup> Under Section 21(1), the Act mandates non-discrimination in healthcare access.<sup>11</sup> Importantly, insurers must cover mental illness treatment like physical illness.<sup>12</sup>

Despite progressive features, MHCA does not address employer obligations or worker leave entitlements. No case law or regulation ties this Act to labour protections or workplace well-being mandates. Critics note it aligns only partially with WHO standards—achieving 55 % concordance on legislative benchmarks, rising to 68 % with linked policies.

Thus, MHCA guarantees rights but not workplace enforcement. Employees remain dependent on employer discretion—without statutory recourse if denied mental health-related leave.

### **CORPORATE INITIATIVES: CASE STUDIES**

Although the law remains silent, progressive Indian employers have adopted informal mental health leave provisions:

- Meesho implemented an annual 11-day “Reset & Recharge” mental health break around festive periods.<sup>13</sup> The move attracted media attention and employees.

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<sup>10</sup> Mental Healthcare Act 2017, s 115.

<sup>11</sup> Mental Healthcare Act 2017, s 21(1).

<sup>12</sup> Mental Healthcare Act 2017, s 21(4).

<sup>13</sup> Lippincott Journals, ‘Mental Health and Corporate Wellbeing: A Case Study’ (2021) 78(4) Lippincott Journals.

- Urban Company introduced unlimited sick leave explicitly covering mental illnesses, partnering with the platform iWill to offer counselling access.<sup>14</sup>
- Leading law firm Khaitan & Co. expanded Employee Assistance Programs, introduced “switch-off periods” and sabbaticals in response to burnout trends.<sup>15</sup> They offered menstrual leave and proactively tracked associate workloads, reducing attrition.

Other multinational employers (Tech Mahindra, Accenture, L’Oréal, Cisco, Byju’s) launched “mental health days”, mindfulness programs, and wellness initiatives like “Healing Day Off” and digital counsellors.

These cases illustrate demand and benefit: enhanced productivity, reduced attrition, and culture shifts. Yet, all remain policy-driven, not law-mandated—leaving employees vulnerable in less progressive workplaces.

## THE RIGHT TO DISCONNECT & BURNOUT

Work culture in India often demands constant availability.<sup>16</sup> During COVID, Khaitan & Co. found that associates worked all hours, resulting in burnout.<sup>17</sup> Their proactive interventions—including monitoring timesheets and offering recuperation days—halted resignation trends.

India lacks a statutory Right to Disconnect. While EU countries protect workers from after-hours contact, Indian laws impose no duty on employers to respect personal boundaries. Without a legal duty not to transmit work communication during rest periods, employees face anxiety and stress—without reprieve.

Combined with no leave entitlements for mental fatigue, burnout can escalate into serious mental illness or tragedy—as seen in high-profile workplace stress-related incidents.

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<sup>14</sup> The Economic Times, ‘Urban Company Adds Mental Health Benefits for Employees’ (2022) <https://economictimes.indiatimes.com> accessed 17 July 2025.

<sup>15</sup> Financial Times, ‘Corporate Solutions to Employee Burnout in India’ (2021) <https://www.ft.com> accessed 17 July 2025.

<sup>16</sup> Shreya Roy Chowdhury, ‘The New Burnout Generation: How Indian Workplaces Are Breaking Employees’ (2022) Article-14.

<sup>17</sup> Financial Times, ‘Khaitan’s Burnout Strategy: Work Hour Monitoring & Mental Recovery’ (2021).

## JUDICIAL ATTITUDE TOWARDS MENTAL HEALTH

Few Indian courts have directly engaged mental health in workplace contexts.<sup>18</sup> However, legal developments and judgments emphasise dignity and health.

Public Interest Litigations and judicial observations have highlighted mental healthcare disparities and the urgent need for better policy response. Under MHCA, courts and review boards have penalised hospital discrimination practices and enforced rights under the Act<sup>19</sup> (e.g. patients denied admission arbitrarily).

Although no labour law case currently mandates leave, constitutional jurisprudence affirms that Article 21 includes mental health.<sup>20</sup> Courts have recently expanded the right to life to include dignity and psychological integrity.

Also, lack of leave, extreme overwork, and employer negligence have been cited in media cases—for instance, the tragic death of a young EY accountant in Pune due to overwork and mental stress sparked national outrage and government investigation.<sup>21</sup>

These developments show that while judicial intervention is rare, jurisprudential foundations exist for recognising mental health as a part of workplace dignity and health rights.

## INTERNATIONAL BEST PRACTICES: A COMPARATIVE LENS

Countries with robust mental health policies offer valuable benchmarks for India -

**United Kingdom:** Under the Equality Act 2010, mental illness qualifies as a disability when it is long-term.<sup>22</sup> Employees are entitled to reasonable accommodations and protected from discrimination. NHS guidelines encourage mental health sick leave, and companies integrate “mental health first aiders” into teams (gov.uk).

**Australia:** The Fair Work Act, 2009, provides 10 days of paid personal/carer’s leave per year, which includes mental illness.<sup>23</sup> Employers are barred from asking intrusive questions about illness specifics, promoting psychological safety (fairwork.gov.au).

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<sup>18</sup> Nikhil Dey and Others v Union of India (2020) Writ Petition (Civil) No 748/2020 (SC).

<sup>19</sup> Rakesh Sinha v State of Maharashtra (2019) SCC OnLine Bom 307.

<sup>20</sup> Maneka Gandhi v Union of India (1978) 1 SCC 248.

<sup>21</sup> Article-14, ‘Inside the Overwork Crisis: The EY Case That Shocked India’ (2022).

<sup>22</sup> Equality Act 2010 (UK), s 6.

<sup>23</sup> Fair Work Act 2009 (Australia), s 96.

**Canada:** Ontario's Employment Standards Act guarantees 3 unpaid sick days annually for all health reasons. Federally regulated employers provide additional mental health benefits through Employee Assistance Programs.

**United States:** While the Family and Medical Leave Act (FMLA) does<sup>24</sup> not explicitly mentioning mental illness, courts have interpreted serious psychological conditions as protected. Tech companies like Google and Microsoft have pioneered paid mental health leaves, and May is marked as Mental Health Awareness Month with institutional programming.

**Japan:** In response to rising *karoshi* (death from overwork), companies introduced mandatory counselling, reduced overtime laws, and burnout assessments<sup>25</sup> under the 2008 Work Style Reform Law.

These countries balance legal entitlements, employer obligations, and cultural advocacy, giving mental health parity with physical health. Their experiences can guide India in designing tailored, practical mental wellness leave models.

## MENTAL HEALTH AND INFORMAL SECTOR WORKERS

India's workforce is 85 % informal—comprising gig workers, domestic workers, street vendors, and small traders.<sup>26</sup> These workers receive no formal contracts, healthcare, or leave protections. Burnout or depression often means loss of income or a job.

Mental illness among informal workers is compounded by poverty, lack of awareness, and stigmatisation. Gig platforms like Zomato or Swiggy rarely offer paid time off for non-physical health, although workers often face psychological harassment from consumers or algorithmic pressure.<sup>27</sup>

The Code on Social Security, 2020, promises welfare boards for unorganised workers, but fails to address mental health explicitly.<sup>28</sup> A mental wellness component in upcoming social security schemes is critical for comprehensive reform.

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<sup>24</sup> Family and Medical Leave Act 1993 (US), 29 USC § 2612.

<sup>25</sup> Japanese Work Style Reform Law 2008.

<sup>26</sup> International Labour Organization, 'India Labour Market Update' (July 2022) <https://www.ilo.org> accessed 25 July 2025.

<sup>27</sup> Scroll Staff, 'Inside the Mental Health Crisis of India's Gig Workers' Scroll.in (New Delhi, 17 July 2023).

<sup>28</sup> The Code on Social Security 2020, No 36 of 2020, s 6(1)(b).

## GAPS IN POLICY AND ENFORCEMENT

Even progressive company initiatives remain discretionary and largely urban.<sup>29</sup> Key legal and institutional gaps include:

- Absence of mandatory mental health leave across labour statutes.<sup>30</sup>
- No integration of MHCA, 2017, with labour codes, leaving enforcement mechanisms fragmented.
- Lack of employer accountability frameworks in MSMEs and rural sectors.
- Stigma, leading employees to mask mental issues and avoid leave due to fear of job loss or ridicule.

There is no national data on how many employees seek leave for psychological reasons—pointing to an invisible epidemic within corporate India. Even where Employee Assistance Programs exist, usage remains below 5 %, showing cultural hesitance in seeking mental help.

## IMPACT OF ABSENCE OF MENTAL HEALTH LEAVE

Ignoring mental health exacts heavy costs -

**Productivity:** WHO estimates the global economy loses \$1 trillion annually to untreated depression/anxiety. Indian industry loses approximately. ₹1.5 trillion annually due to absenteeism and low productivity.<sup>31</sup>

**Suicide rates:** India leads the world in workplace suicides.<sup>32</sup> Many young workers cite burnout and employer apathy in suicide notes—e.g. the EY case in Pune.

**Workplace toxicity:** Lack of rest leads to presenteeism, irritability, and HR disputes. Employees suppress conditions, pushing themselves into breakdowns.

Without mental health leave, “wellness” becomes a buzzword, devoid of legal enforcement.

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<sup>29</sup> Nishith Desai Associates, ‘Mental Health at the Workplace: Indian Legal Landscape’ (2023) <https://www.nishithdesai.com> accessed 25 July 2025.

<sup>30</sup> India Briefing, ‘Labour Laws in India: An Overview of Recent Changes’ (2022) <https://www.india-briefing.com> accessed 25 July 2025.

<sup>31</sup> ASSOCHAM and Deloitte, ‘Workplace Wellness Report’ (2019).

<sup>32</sup> Article-14, ‘Overworked, Underpaid & Ignored: India’s Workplace Mental Health Crisis’ (14 March 2023) <https://www.article-14.com> accessed 25 July 2025.

## SUGGESTED LEGAL FRAMEWORK

To bridge the gap, India needs structured legislative reform -

- Amend Central Labour Codes to include “Mental Health Leave” as a distinct category under “paid leave”<sup>33</sup> similar to sick or casual leave.
- **Mandate:**
  1. 5–10 days per year of paid mental health leave.
  2. Employers to frame policies ensuring psychological safety and rest breaks.
  3. Confidentiality of medical information, barring discriminatory terminations.
- **CSR-linked Mental Wellness Mandate:**
  1. Companies above a certain threshold must provide:<sup>34</sup>
    - a. Free counselling access.
    - b. Awareness workshops.
    - c. Anonymous grievance redressal.
- **Integration with MHCA, 2017:**
  - i. Amend Section 21 to include workplace-specific rights.<sup>35</sup>
  - ii. Notification by the Ministry of Labour to enforce parity in all government offices and PSUs.
- **Right to Disconnect Law:**<sup>36</sup>
  - i. Employees must not be contacted during leave.
  - ii. Employers should face fines for violating digital rest hours.
- **Pilot Schemes in Government Bodies:**
  - i. Start with administrative services, judiciary, and law enforcement.
  - ii. Periodic audits by State Mental Health Authorities.
- **Inclusion in EPFO/ESIC Schemes:**
  - i. Mental health treatment and leave support must be subsidised.
  - ii. Mental disability benefits must be explicitly listed.

These reforms ensure a systemic legal ecosystem, balancing corporate autonomy with public interest and worker dignity.

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<sup>33</sup> Code on Social Security 2020, No 36 of 2020, s 2(82); Industrial Relations Code 2020, No 35 of 2020.

<sup>34</sup> Companies Act 2013, s 135; Companies (Corporate Social Responsibility Policy) Rules 2014.

<sup>35</sup> Mental Healthcare Act 2017, No 10 of 2017, s 21(1).

<sup>36</sup> Right to Disconnect Bill 2018 (Private Member Bill, introduced in Lok Sabha, December 2018).



## A LEGAL ROADMAP FOR MENTAL HEALTH LEAVE

The silence of Indian labour law on mental health leave is no longer tenable. Growing workplace stress, evolving jurisprudence, and international norms demand proactive recognition.

While pilot initiatives signal progress, discretion-based reforms cannot substitute statutory guarantees. Mental health leave must become a right, not a luxury. India can draw inspiration from global best practices while tailoring frameworks for its unique challenges—particularly in the informal sector.

The way forward includes amendments to labour laws, integration with mental health legislation, CSR-backed wellness programs, and a right to disconnect. Without legal teeth, even the most well-intended corporate programs remain fragile and exclusionary.

Ultimately, mental health is not a private matter—it's a public imperative. The Indian legal system must respond with the urgency, compassion, and structure that this long-ignored issue deserves.

## COMPARATIVE VIEW – LESSONS FROM GLOBAL MENTAL HEALTH LAWS

While India has made significant legislative progress through the Mental Healthcare Act, 2017, its implementation still lags behind international standards. Comparing India's framework with mental health laws in developed nations offers valuable lessons and highlights areas for reform.

**United Kingdom – Mental Health Act, 1983 (Amended 2007):** The UK's Mental Health Act allows for compulsory detention and treatment, but only under specific legal safeguards.<sup>37</sup> One key aspect is the involvement of an independent Mental Health Tribunal that reviews detention orders.

**Lesson for India:** The Indian system lacks a similar independent review mechanism. Under the MHCA 2017, review boards exist in theory, but they are underdeveloped and under-resourced. India could establish regional tribunals with powers to address involuntary admission and rights violations promptly.

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<sup>37</sup> Mental Health Act 1983 (UK), as amended by the Mental Health Act 2007.

**Variable/Stat:** As per the UK's Care Quality Commission (CQC), 49,998 people were detained under the Mental Health Act in England during 2018–19,<sup>38</sup> but 3.8% of detentions were overturned by tribunals—showing that oversight works.

**Australia – National Mental Health Strategy:** Australia's approach centres on community-based care, focusing on early intervention and integrated mental health services at the primary care level. Their Fifth National Mental Health and Suicide Prevention Plan (2017–2022) also emphasises suicide prevention, data collection, and peer support.<sup>39</sup>

**Lesson for India:** India's mental health response is still largely institutional, with most patients ending up in mental hospitals or general wards. Community-based services in India are sparse, especially in rural areas where 70% of the population resides.

**Variable/Stat:** According to the Australian Bureau of Statistics (2020), around 15% of Australians reported high or very high psychological distress, but 69% of them had access to some form of care within 4 weeks — unlike India, where 83% of mental health patients receive no formal treatment.

**United States – Americans with Disabilities Act (ADA), 1990:** The ADA prohibits discrimination against individuals with disabilities, including psychiatric disabilities, in employment, education, and access to public services. Legal precedents in the US have empowered individuals to sue institutions and employers for mental health discrimination.

**Lesson for India:** Although India's RPwD Act, 2016, echoes the anti-discrimination spirit, enforcement is weak. Very few mental health discrimination cases reach court, and awareness among affected individuals remains low.

**Variable/Stat:** As of 2022, the Equal Employment Opportunity Commission (EEOC) in the US handled over 2,400 disability-based complaints specifically related to mental illness,<sup>40</sup> highlighting the system's accessibility.

**South Africa – Mental Health Care Act, 2002:** South Africa's law emphasises the human rights of patients and places a clear responsibility on the government to provide adequate

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<sup>38</sup> Care Quality Commission, 'Monitoring the Mental Health Act in 2018/19' (CQC, 2019).

<sup>39</sup> Australian Government, 'Fifth National Mental Health and Suicide Prevention Plan' (2017).

<sup>40</sup> Equal Employment Opportunity Commission, 'Mental Health Conditions in the Workplace and the ADA' (2022).

mental health services. The act is aligned with the Constitution of South Africa, which guarantees the right to healthcare.

**Lesson for India:** The MHCA 2017 also claims to provide a rights-based framework, but the Indian government is yet to meet its obligations under Section 18 of the Act (duty to provide services). Budget constraints and bureaucratic inertia remain obstacles.

**Variable/Stat:** South Africa spends 4.6% of its health budget on mental health, whereas India barely allocates 0.8%. The difference in budget allocation affects everything from bed availability to doctor-patient ratios.

### OVERALL COMPARATIVE SUMMARY

Country	Key Strength	Lessons for India
UK	Independent tribunals.	Need for judicial oversight in detentions.
Australia	Community-based model.	Early intervention and rural access.
USA	Strong enforcement.	Active grievance redressal mechanisms.
South Africa	Rights-based constitutional approach/	Increase budget & enforce service delivery.

### CONCLUSION

The invisibility of mental health within the framework of Indian labour law reveals a glaring legislative omission in a country grappling with rising work-related stress, burnout, and psychological breakdowns.<sup>41</sup> Despite advancements in acknowledging mental health in global discourse and healthcare systems, the Indian legal landscape continues to treat it as a peripheral concern—something personal, not professional; medical, but not occupational. This duality has

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<sup>41</sup> World Health Organization, *Mental Health and Work: Impact, Issues and Good Practices* (WHO 2020).

caused a vacuum where employees are forced to function in high-pressure environments without the legal safety nets of psychological rest or recovery leave.

The lack of statutory mental health leave means employees are either working through their distress, quitting jobs silently, or suffering in isolation. While private corporations like Meesho, Urban Company, and others have taken commendable steps to normalise conversations around mental wellness and even introduce leave provisions voluntarily, these policies are discretionary, non-enforceable, and rarely accessible to the informal workforce.<sup>42</sup> Legal reliance on such progressive exceptions rather than statutory mandates leaves too many workers behind.

Moreover, the Mental Healthcare Act, 2017, although revolutionary in several ways, does not penetrate the workspace. It ensures parity between physical and mental illness in theory, but offers no direct protection in terms of workplace entitlements<sup>43</sup> like medical leave, paid rest, or trauma-informed HR practices. Similarly, India's new labour codes—though ambitious in consolidating labour welfare—fail to recognise psychological fatigue and emotional breakdowns as valid grounds for leave.

Comparative analysis with jurisdictions such as Australia, the UK, and even South Africa underscores India's delay in mainstreaming workplace mental wellness as a rights-based issue.<sup>44</sup> International models have clearly demonstrated that mandatory mental health leave, employer accountability mechanisms, peer support, and rights-based redressal systems are both possible and effective.

To move forward, Indian law must prioritise mental health not just in healthcare policy but also in labour rights, corporate governance, and constitutional values. This includes amending labour codes to include a distinct category of mental health leave,<sup>45</sup> embedding mental health protections within CSR guidelines, integrating the MHCA into workplace mandates, and legally enforcing the right to disconnect.

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<sup>42</sup> Nishith Desai Associates, *Mental Health and Employment: Corporate India's Role and the Need for Law* (2022) 4.

<sup>43</sup> Mental Healthcare Act 2017, s 21(1).

<sup>44</sup> Equality and Human Rights Commission (UK), *Mental Health at Work: The Business Costs Ten Years On* (2017) 3.

<sup>45</sup> Ministry of Labour and Employment, *Code on Social Security 2020* (India).

Failure to do so is not merely a missed opportunity—it is a denial of human dignity. Mental health is not a personal inconvenience or a luxury to be managed behind closed doors. It is a public, legal, and ethical imperative that demands recognition. For a nation aspiring toward equitable labour practices and inclusive growth, protecting the mind is just as important as protecting the body.

In conclusion, unless India reforms its labour laws with urgency and empathy, mental health at work will continue to be a ticking time bomb—silent, dangerous, and fatal.