CHAPTER I
AGRICULTURAL LABOUR: NEED FOR CONCEPTUAL CLARITY

1.1 Introduction

Agricultural workers constitute the most neglected class in Indian rural structure. Often they are not in a position to earn just enough to keep their body and soul together and are frequently exposed to the hazards of unemployment and irregular employment and have neither private nor social security. Being unorganized, they do not have the most needed muscle to seek better living and working condition. Their income is low and employment irregular. Since, they possess no skill or training, they have no alternative employment opportunities either¹.

According to Census of India there are about 402.5 million rural workers of which 127.6 million are cultivators and 107.5 million are agricultural labourers.² In other words, pure agricultural workers constitute nearly 58.4 per cent of the total rural workers, of which 31.7 per cent are owner cultivators and 26.7 per cent are mainly agricultural wage earners³. The latest available Agricultural Census data also reveals that about 78 per cent of operational holdings in the country are marginal and small, having

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less than 2 hectares. About 13 per cent holdings have 2 to 4 hectares and 7.1 per cent have 4 to 10 hectares of land. The relatively large holdings above 10 hectares number only about 1.6 per cent of the total operational holdings. However, this 1.6 per cent of the large holdings occupies about 17.3 per cent of the total area, while 78 per cent of holdings which are less than 2 hectares, operate only about 32.4 per cent of the total area. This reveals of inequality in the distribution of operational holdings. Also there is inequality of income between agricultural workers, which is evident from the fact that percentage share of agriculture in current total GDP is only 24.2 per cent, while the percentage share of agricultural work force to total work force comes to about 60 per cent.

Nearly 600 million individuals are engaged in farming and over 80 per cent of them belong to the small and marginal farmer categories. Due to imperfect adaptation to local environments, insufficient provision of nutrients and water, and incomplete control of pests, diseases and weeds, the present average yields of major farming systems in India is just 40 per cent of what can be achieved even with the technologies currently on the shelf.

1.2 Indian Agricultural Labour in Retrospect

It is aptly averred that “a page of history is worth a volume of logic”. Any legal research having direct impact upon the members of civilized society if undertaken devoid of historical analysis would be exercise in futility. While involved in research, *inter alia*, in law “[t]oday we study the day before yesterday, in order that yesterday may not paralyse today, and today may not paralyze tomorrow”7. Realizing the importance of history, in this segment the researcher has attempted to cover the historical landmarks in the area of evolution of agricultural labour and law in India.

During the early stages of the human society men were unsettled and were wandering from one place to another in search of food. When men learnt better ways of living and settled, their settlement was mostly on the banks of rivers or near water. This was illustrated from the excavations of the Indus Valley Civilization which was believed to be in beginning sometime around 2300 BC.8

After this stage man learnt cultivation, however, it was mostly the shifting cultivation from one place to another. Sense of ownership did not take roots until then. But importance of agriculture was realized and men

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settled, then they realized the importance of possession and the sense of ownership.

In the initial stages, the sense of community ownership was in existence which gave way to family ownership of the property, perhaps the community ownership continued till the medieval period. Shortly after the establishment of the Moghul rule in India, it was changed to the family ownership.\(^9\)

After the establishment of the British rule in most of the parts in India and particularly after the introduction of the regular and fixed revenue system, the agricultural land acquired more importance\(^{10}\). Consequently, the sense of personal ownership increased.

Moreover, the British rule made various laws to strengthen the concept of ownership of the property. Thereafter, the era of the Modernization entered in the Indian agricultural industry, which on the one hand knocked the doors of development of the economy and resulted in the enrichment of some of the agriculturists, on the other hand it has resulted in the economical imbalance among the mass. Ironically, the capital and the

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labour, two foundation stones on the basis of which the edifice of the strong agricultural economy would have been constructed, were separated.

The problem of surplus labour started before the colonial period, which became visible in the colonial period. The reason for this was the omnipresence of absentee landlordism that resulted in food insecurity and destruction of traditional agro-based artisanship.

Agricultural labourers had increased dramatically under British rule from a mere one-seventh of the agricultural population at the end of the nineteenth century to over one-third by 1931. In the society before British rule there was little room for the existence of an independent and distinct class of agricultural labourers. Within the traditional self-sufficient village communities, cultivators and artisans lived together, exchanging their products with each other and peasants produced with the assistance of family labour. British rule saw the dissolution of the old order, the collapse of traditional social relations, a process of immeserization, and the emergence of a substantial class of landless agricultural labourers.

The agrarian crisis became a fundamental barrier to the development of productive forces in pre-independence India. The key issue during the

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national liberation struggle was radical agrarian reform to remove absentee landlordism and liberate productive forces. These were also central issues for Adivasi [the indigenous people] movements in the 18th, 19th and 20th centuries and labour movements in the last two decades before India became independent. The principles of future land reform policy became the core issue especially after the withdrawal of Chori Chora Satyagraha12 [a milestone in Indian freedom struggle]. At the same time the revolutionaries led by HSRO (Hindustan Socialist Republic Organisation) strongly raised the issue of complete abolishment of Zamindari13 [landlord] System. On 15th March 1947, Dr. Babasaheb Ambedkar proposed that all private and public lands should be nationalised and distributed to all those living on land for collective cultivation14.

However, under the pressure of feudal forces the Government took a resolution only for land distribution. Abolition of intermediary land tenure system was given top priority immediately after the Independence as this system was known for its exploitation of tenants. On the eve of Independence about 173 million acres out of 324 million acres of cultivable

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13. Ibid.
land was under intermediary tenures. It should be added here that the tenants were kept bonded for agricultural work.

Zamindari abolition had some negative aspects. Firstly a lot of money (Rs. 534 crores or Rs. 5,340 million)\(^\text{15}\) had to be paid in the form of compensation to the erstwhile Zamindars. Secondly, large chunks of land could be retained by Zamindars by claiming these as land under personal cultivation\(^\text{16}\). Thirdly, ownership rights were conferred not on the actual cultivator but on the recorded statutory tenant. However, these tenants had a chain of sub-tenants who were actual tillers and belonged to the vulnerable sections of the society\(^\text{17}\). As a result many actual tillers who were small and marginal tenants and who belonged to the dalit and adivasi sections were thus deprived of land\(^\text{18}\).

In addition, the forest department became the largest Zamindar in the post-independent era. Private forest surrendered by the Princely States, large chunks of pastures, common property resources and community forests were transferred to forest department. The rights of tribal and forest dwellers were reduced to concessions and later abolished totally. These lands were given for management, with no ownership rights. However, the forest department

\(\text{\footnotesize 15. Supra note at 12.}\)
\(\text{\footnotesize 16. Ibid.}\)
\(\text{\footnotesize 17. Ibid.}\)
\(\text{\footnotesize 18. Ibid.}\)
now claims to be holding 23% of land on which barely 9% of forest exists, while the owners/traditional users of the forest are called as encroachers.\textsuperscript{19}

Similarly huge tracts of land were given for plantations, where even today at least 30-40% of the land lies unused\textsuperscript{20}. Labourers in plantations were given no ownership rights to even the house that they had been living in for the past four to five generations. Industry was also given huge tracts of land, as were mines. Many of those who depended on these lands for a living were displaced, leaving them with agricultural labour as their only means of subsistence.

Thus, India entered the post land reforms period in the 1960s with little change except in a few pockets of 'forward' States\textsuperscript{21}. Ceiling laws that were enacted later on were so liberal towards landed elements and their implementation was so ineffective that land concentration remained unchanged. The entire implementation was left with corrupt local land revenue functionaries. Landowners had the option to surrender the land of their choice. Consequently they surrendered the worst land mostly unfit for cultivation\textsuperscript{22}.

\textsuperscript{19} http://khetmajoorsamity.blogspot.com/2010/12/who-are-agricultural-workers.html \[accessed on 12-07-2011].
\textsuperscript{20} Supra note at 14.
\textsuperscript{21} Ibid.
With this brief history let us now find out what exactly is meant by agricultural labour in India and whether there is need for adding conceptual clarity in the context.

### 1.3 Agricultural Labour in India: Need for Conceptual Clarity

Legal drafting, according to Reed Dickerson, involves “crystallization and expression in definitive form of a legal right, privilege, function, duty or status”\(^{23}\). Such drafting embodies twin aspects *i.e.*, “conceptual aspect, in which the drafter ascertains and perfects the concepts to be employed in his draft, and the literary aspect, in which the drafter selects the best means of expressing those concepts”. Thus, conceptual clarity is *sine quo non* for effective drafting of law. To add the most needed clarity to the concept it is incumbent to define at least the most important terms often used in a particular law. Definition, it is said, “gives a meaning to a word or expression”. Further it may also “limit or extend the meaning of a word or expression”\(^{24}\). It adds “certainty to its meaning”\(^{25}\). Moreover, definition helps either to “limit” or to “extend” the boundaries of ordinary meaning of a said concept so as to provide contextual meaning. In addition, even to “avoid repetition” definitions become handy. Similar is expected in case of researching in the area of agricultural labour.

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This section presents a definition of agricultural labour, the characterization and importance of the agricultural labour. The narration unfolds by defining agricultural labour in the Indian context followed by listing out some of the main characteristics of the small farm holders. The technical framework which follows comprises of technical constraints accompanied by the theoretical framework for consideration of technical change as well as the need for technical change in agricultural labour is stressed upon.

1.3.1 Agricultural Labour: Concept and Meaning:

It is settled rule of interpretation that the words not defined in a statute are to be understood in their natural, ordinary or popular sense. According to Justice Frankfurter, "[a]fter all, legislation, when not expressed in technical terms, is addressed to common run of men, and is, therefore, to be understood according to sense of the thing, as the ordinary man has a right to rely on ordinary words addressed."

In determining, therefore, whether a particular ingredient is included within the ordinary meaning of a given word, one may have regard to the answer which everyone conversant with the word and the subject-matter of statute and to whom the legislation is addressed, will give if the problem were put to him. Same principle hold

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good in case of the terminology used in laws governing agricultural labour including the most important term agricultural labour.

Agricultural labour means any person employed in agricultural crop production as a wage earner, whether in cash or kind, for his livelihood and includes a person engaged through a contractor or engaged as a self-employed person.27

There is a great variation of the types of labour establishments owing to differences in economic motives and varied formations of the social order in which the labour of different countries live. Thus we find that there are rather important differences between an Egyptian Fellah28 and an American Farmer, a German Bordeauer and an Italian Mezzadro,29 a Russian Moujik, a French Fermicr, a Chinese Farmer and an Indian Kisan.30

Agriculture labour is a person who is hired by an employer for involving in the science, art, and business of cultivating land including the

28. Fellah was the term used throughout the Middle East in the Ottoman period and later to refer to farmers. Comprising 60% of the Egyptian population, the fellah lead humble lives and continue to live in mud-brick houses like their ancient ancestors. Their percentage was much higher in the early 20th century, before the large influx of Egyptian fellahin into urban towns and cities. In 1927, anthropologist Winifred Blackman, author of The Fellahin of Upper Egypt, conducted ethnographic research on the life of Upper Egyptian farmers and concluded that there were observable continuities between the cultural and religious beliefs and practices of the fellahin and those of ancient Egyptians, See, Jonathan Scott, Tales, Anecdotes, and Letters 34, Vol. 6, London: Cadell, 1800.
gathering of crops, and rearing of live-stock \textit{i.e.} farming; husbandry which is used to sustain life$^{31}$. In 1961 Census, those agricultural workers were taken as agricultural labourers whose main source of income was wage earning, and in 1971 Census, the emphasis was on main activity \textit{i.e.}, whose main activity was to work on another person’s field for payment.

A better definition can be seen in 1981 Census which defines agricultural labour as a person who works in another person’s land for wages in money, kind or share. He or she has no risk in the cultivation but merely works in another person’s land for wages. An agricultural labour has no right for lease or contract on land on which s/he works.$^{32}$ Socially a large number of agricultural workers, it is alleged, belong to scheduled castes and scheduled tribes.$^{33}$ They are not only suppressed class but also unorganised failing to fight for their rights. Because of all these reasons their economic condition has remained unchanged even after six decades of Planning. Way back in 1966 Mrs. Indira Gandhi, the then Prime Minister of India, in her speech emphasized that "[w]e must give special consideration to the landless agricultural labour. Although there has been tremendous progress in India since Independence, this is one section, which has really a very hard time

and which deserves very special consideration.” However, till date nothing concrete worth mentioning has materialized. Seasonal unemployment is a characteristic feature of Agricultural Industry and underemployment of manpower is inherent in the system of family farming.

Agricultural Labour Enquiry Committee defined agricultural labour as a person who, for more than half of the total number of days, worked as an agricultural labour. An agricultural labour may be the small or marginal farmer or an artisan, but when a person derives his main earning by doing some agricultural work on others farm is called an agricultural labour. According to First Agricultural Labour Enquiry Committee, 1950-55 [hereinafter referred as F.A.L.E.C.], adult male agricultural labourers were employed on wages for 189 days in agricultural work and for 29 days in non-agricultural work i.e., 218 days in all in a year. And for remaining 75 days they were self-employed. Casual male workers found employment for only 200 days, while attached workers were employed for 326 days in a year. Women workers are employed for 134 days in a year. The reason is that unless capitalism develops fully in agriculture, a separate class of workers depending wholly on wages probably does not come up.

Difficulties in defining agricultural labour are compounded by the fact that many small and marginal farmers also work partly on the farms of others to supplement their income. It is not easy to answer to what extent should they (or their family members) be considered as agricultural labourers.

To bring in precision in the term agricultural labour is rather difficult because workers in this field are employed as permanent, seasonal and temporary or casual workers. The nature of work differs from time to time and it is difficult to define as the activity of agriculture differs from one geographical area to another and from season to season. Despite of all hardships some attempts have been made by experts which are stated below:

According to the F.A.L.E.C., 1950-55 agricultural labourers are "[t]hose people who are engaged in raising crops on payment of wages". Further, as per this Committee agricultural labour household “is the one whose main source of income i.e., half or more number of household is wage employed in agriculture, then that household would be treated as ‘agricultural labour household’.”

The Second Agricultural Labour Enquiry Committee, 1956-57 [hereinafter referred as S.A.L.E.C.] enlarged the definition to include "[t]hose who are also engaged in other agricultural occupations like dairy farming, horticulture, raising of live-stock, bees, poultry etc." This enquiry report used income instead of occupation as the basis for defining agricultural workers. Thus, an agricultural household is said to be one whose main source of income is wages from agriculture.

In the context of Indian conditions the definitions stated above are not adequate, because it is not possible to completely separate those working on wages from others. There are people who do not work on wages throughout the year but only for a part of it. Therefore, the F.A.L.E.C. used the concept of agricultural labour household instead of just agricultural labour. If half or more members of household have wage employment in agriculture then those households should be termed as agricultural labour households. This concept was based upon the occupation of the worker. The Second Committee was of the opinion that to know whether a household is an agricultural labour household, one must examine its main source of income. If 50% or more of its income is derived as wages for work rendered in agriculture only, then it could be categorized agricultural labour household.

38. Supra note 01.
For Rural Labour Enquiry, 1974-75 a person was treated as an agricultural labour if he followed one or more of the following occupations in the capacity of labourer on hire or exchange whether in cash or kind or partly in cash and partly in kind:

a. Farming includes the cultivation and tillage of soil etc.,
b. Dairy farming,
c. Raising of livestock, bee keeping or poultry,
d. Production, cultivation, growing and harvesting,
e. Any practice performed on a farm as incidental to or in conjunction with the farm operations including any forestry or timbering operations and the preparation for market and delivery to storage or to market or to carriage for transportation of farm products.
f. Reserved or used for fodder or thatching grass or for grazing cattle\(^{39}\).

As per the First National Commission on Labour, 1969 [hereinafter referred as F.N.C.L.] “an agricultural labourer is one who is basically unskilled and unorganised and has little for his livelihood, other than personal labour”:\(^{40}\)

Thus, persons whose main source of income is wage, employment fall in this category\(^{41}\). Mention has not been made about the small land holders or marginal farmers who also work most part of the time as labourers.

\(^{40}\) Ibid.
1.3.2 Statutory Meaning of the term Agricultural Labour:

Section 2 (f) of the *Kerala Agricultural Workers Act*, 1974 defines agricultural worker as: “a person who, in consideration of the wages payable to him by a landowner, works on, or does any other agricultural operation in relation to the agricultural land of such landowner.”

As per Section 2(b) of the *Tamil Nadu Agricultural Labourers Farmers (Social Security and Welfare) Act*, 2006 ‘agricultural labourer’ means any person in the age group of 18 to 65 years, engaged to work in agricultural or allied agricultural operations for wages but who does not own any land.

The above mentioned statutory definitions are found in the State legislations. As far as the picture at Central level is concerned neither there is an exclusive legislation meant for agricultural labour nor any attempt is made to incorporate the definition of agricultural labour under any of the other labour legislations that have been made applicable to the agricultural labour. Hence, it is inevitable to look into certain other terms having direct or indirect link with the term agricultural labour so as to enable the drafting of a better definition in the proposed law for agricultural labour.
1.3.3 Concept of Agriculture:

Agriculture is cultivation of the soil, including the allied pursuits of gathering crops and rearing livestock. “A person in the service of another under any contract of hire, express or implied, oral or written, where the employer has the power or right to control and direct the employee in the material details of how the work is to be performed”.

The term 'agriculture' in Section 2(1)(b)(i) of the Indian Income-tax Act, 1961 connotes the entire and integrated activity of an agriculturist performed on the land in order to raise its produce and consists of such basic and essential operations, requiring human skill and labour on the land itself, as the tilling of the soil, sowing of the seeds, planting and similar operations on the land and such other subsequent operations, performed after the produce sprouts from the land, as weeding, digging of the soil around the growth, removal of undesirable under-growths, tending, pruning, cutting, harvesting and marketing. But these subsequent operations, if unconnected with the basic operations, cannot by themselves constitute agriculture. Whatever is produced by such agriculture must be an agricultural product and the ambit of the term 'agriculture' cannot be confined merely to the

production of grain and food for men and cattle but must extend to all products of the land that have some utility either for consumption or trade and commerce. Fruit and vegetable plantations, groves, pastures, articles of luxury such as betel, coffee, tea, spices, tobacco etc. or commercial crops like cotton, flax, jute, hemp, indigo etc. as also forest products such as timber, sal and piyasal trees, casuarina plantations, tendu leaves, horranuts etc., come within its ambit.

Before we proceed further and attempt to define agricultural labour it is pertinent to find out the ingredients of definitions of “workmen”, “worker”, etc in industrial set-up under the respective laws. It is also necessary to detect whether these definitions cover agricultural labour directly or indirectly.

1.3.4 Concept of Workmen/ Worker under Labour Laws:

Section 2(s), of the Industrial Disputes Act, 1947 contains an exhaustive definition of the term ‘workman’. The definition takes within its ambit any person including an apprentice employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward and it is immaterial that the terms of employment are not reduced into writing. The definition also includes a person, who has

been dismissed, discharged or retrenched in connection with an industrial dispute or as a consequence of such dispute or whose dismissal, discharge or retrenchment has led to that dispute. The last segment of the definition specifies certain exclusions. A person to whom the Air Force Act, 1950, or the Army Act, 1950, or the Navy Act, 1957, is applicable or who is employed in the police service as an officer or other employee of a prison or who is employed mainly in managerial or administrative capacity or who is employed in a supervisory capacity and is drawing specified wages per mensem or exercises mainly managerial functions does not fall within the definition of the term `workman’.

Whenever an employer challenges the maintainability of industrial dispute on the ground that the employee is not a workman within the meaning of Section 2(s) of the Industrial Disputes Act, 1947, what the Labour Court/Industrial Tribunal is required to consider is whether the person is employed in an industry for hire or reward for doing manual, unskilled, skilled, operational, technical or clerical work in an industry. Once the tests of employment for hire or reward for doing the specified type of work is satisfied, the employee would fall within the definition of `workman’.

Section 2(1) of the *Factories Act*, 1948 defines a `worker' as follows: "worker" means a person (employed, directly or by or through any agency (including a contractor) with or without the knowledge of the principal employer, whether for remuneration or not) in any manufacturing process or in cleaning any part of the machinery or premises used for a manufacturing process, or in any other kind of work incidental to, or connected with, the manufacturing process, or the subject of the manufacturing process (but does not include any member of the armed forces of the Union)".

In none of the above referred labour laws the term agricultural labour is not specifically included.

According to some of the legal luminaries "[a]ll those persons who derive a major part of their income as payment for work performed on the farms of others can be designated as agricultural workers. For a major part of the year they should work on the land of the others on wages." The nature of work carried on by the labourers so employed may fall in any of the following categories.

i. **Manual labour** is physical work done by people, most especially in contrast to that done by machines, and also to that done by working animals. It is most literally work done with the hands (the word "manual" comes from
the Latin word for hand), and, by figurative extension, it is work done with any of the muscles and bones of the body. For most of human pre-history and history, manual labour and its close cousin, animal labour, have been the primary ways that physical work has been accomplished. Mechanisation and automation, which reduce the need for human and animal labour in production, have existed for centuries, but it was only starting in the 19th century that they began to significantly expand and to change human culture. To be implemented, they require that sufficient technology exist and that its capital costs be justified by the amount of future wages that they will obviate.47

This apart, in agriculture considering the nature of work many a times casual labourers are also employed. It is pertinent to refer to the meaning of this type of work force for the better crafting of a self-contained concept of agricultural labour.

ii. Casual labour refers to labour whose employment is seasonal, intermittent, sporadic or extends over short periods. Labour of this kind is normally recruited from the nearest available source. It is not liable to

transfer, and the conditions applicable to permanent and temporary staff do not apply to such labour.\(^{48}\)

Casual labour can be divided into three categories, namely, (i) staff paid from contingencies except those retained for more than six months continuously, known as Open Casual Labour; (ii) labour on projects, irrespective of duration, known as Project Casual Labour; and (iii) seasonal labour who are sanctioned for specific works of less than six months duration. Persons falling in category (i) who continued to do the same work or other work of the same type for more than six months without a break were to be treated as temporary after the expiry of the period of six months of continuous employment.\(^{49}\) The benefit of temporary status is not available to project casual labour.\(^{50}\)

iii. **Permanent Workman** is one, who is engaged on the work of a permanent nature or permanent requirement lasting throughout the year and has completed his probationary period, if any,

iv. **Temporary Workman** is one who is engaged for meeting a temporary or casual requirement.

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\(^{48}\) *D. S. Nakara v. Union of India*, 1983 (2) SCR 165.

\(^{49}\) *Union of India v. K.G. Radhakrishana Panickar*, AIR 1998 SC 2073 [*per*, S.C. Agarwal, S. Saghir Ahmad, M. Srinivasan, JJ.].

\(^{50}\) *Inder Pal Yadav v. Union of India* 1985 SCC (2) 648.
v. Seasonal workman is one, who is engaged only for the crushing season and has completed his probationary period, if any. Following are some of the special Conditions Governing Employment of Seasonal Workman:

1. A seasonal workman who has worked or, but for illness or any other unavoidable cause, would have worked during the whole of the second half of the last preceding season shall be employed in the current season and shall be entitled to get retaining allowance provided he joins the current season and works for at least one month. The payment of retaining allowance shall be made within two months of the date of the commencement of the season.

Explanation - Unauthorised absence during the second of the last preceding season of a workman who has not been validly dismissed under the Standing Orders and of a workman, who has been re-employed by the Management in the current season, shall be deemed to have been condoned by the Management.

2. Every seasonal workman who worked during the last season shall be put up on his old job whether he was in the `R' shift or in any of the usual shifts. However, if the exigencies of works so require the management may transfer a workman from one job to another job or from one shift to another including the `R' shift, so however, that the number of workman so

transferred does not exceed five per cent of total number of the employees and that the wages and status of such workman is not affected in any way.

3. A seasonal workman who is a retainer shall be liable to be called on duty at any time in the off season and if he does not report for duty within 10 days he shall lose his retaining allowance for the period for which he was called for duty.⁵²

There is absolutely no distinction between a full time and part-time employee and that a workman who was working part time would not lose his status as a workman if he was employed with more than one employer. It has also been submitted that preponderance of judicial opinion of various High Courts was in favour of the above proposition of law⁵³.

1.4. Classification of Agricultural Labourers

Agricultural labour can be generally classified into three varieties:

a) Labourers working on monthly or annual salaries, with virtual freedom to change employers.

b) Labourers engaged on daily basis, particularly for seasonal operations, generally called casual workers. Field labourers consist of ploughmen, reapers, sowers, labour involved in inter-culture operations and trans-

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⁵² U.P. State Sugar & Cane Development Corporation Limited v. Chini Mill Mazdoor Sangh, 2009(1) ALJ 246 [per Atamas Kabir, J].
planters. Ordinary labourer consists of embankment labourers, well diggers and canal cleaners\textsuperscript{54}.

c) Serf labourers with nominal wages, and bound to the employer for life, in some cases for generations, on account of debts and more on account of custom\textsuperscript{55}.

The bonded or semi-free labourers consist of those who do not have the freedom to choose the masters of their choice. In most cases, the labourers coming under this category are not only the labourers themselves, but also the members of their families who work for the master to whom they are bound in some form or the other. It is one of the most restrictive feudal practices still prevailing in some parts of country\textsuperscript{56}.

\textit{The National Commission on Labour} has divided Agricultural labourers in the following manner:

1. Landless agricultural labourers.

2. Very small cultivators whose main source of earnings due to their small and sub-marginal holdings is wage employment\textsuperscript{57}.

\textsuperscript{54} Nanavathi, B.M. and Ajarja, J.J., \textit{The Indian Rural Problem} 15, Bombay: Indian Society of Agricultural Economics, 1945.

\textsuperscript{55} Agricultural Wages in India 31, Vol., 1, Nashik: Government of India, Ministry of Labour, 1952.

\textsuperscript{56} Surendra, J. Patel, \textit{Agricultural Labour in Modern India and Pakistan} 71, Bombay: Current Book House, 1952.

Further, Landless labourers in turn can be classified into two broad categories:

1. Permanent Labourers attached to cultivating households.

2. Casual Labourers.

The above mentioned second group can again be divided into three sub-groups:

(i) Cultivators (ii) Share croppers (iii) Lease holders

Permanent or attached labourers generally work on annual or seasonal basis and they work on some sort of contract. Their wages are determined by custom or tradition. On the other hand temporary or casual labourers are engaged only during peak period for work. Their employment is temporary and they are paid at the market rate. They are not attached to any landlords.

Under second group comes small farmers, who possess very little land and therefore, has to devote most of their time working on the lands of others as labourers. Share croppers are those who, while sharing the produce of the land for their work, also work as labourers. Tenants are those who not only work on the leased land but also work as labourers.58

The rural population in India may be differentiated into numerous functional groups stratified both socially and economically. Though the rural

pyramid is much less stratified than the urban, the fundamental scheme of variation is evident if judged from the standpoints of wealth, income, standard of living, land holdings and subsequent domination and subjection, and also social prestige and political privileges accruing there from.

In India the problem of rural stratification is closely connected with that of contemporary tendencies in the degree of survival of various types of agricultural enterprises. There is a manifest tendency towards an increased concentration of land in the hands of capitalistic entrepreneurs and the consequent increase of landless rural proletariat. This has increased the social distance between various aggregates and has caused considerable conflict and social antagonism. The growth of rent-receivers and non-agricultural classes in rural areas, and the decrease of peasant-proprietors have greatly infused the spirit of class struggle among the new aggregates of landless field workers and unspecified rural labourers. Above all, the weakening of the institution of caste and a progressive abandonment of hereditary occupations has, to a serious degree, impaired the vitality of rural hierarchies and communal functionaries.

The agricultural population most commonly consists of the rent-receivers, cultivators and field-workers. Each of these classes is further divided into smaller groups, and the differences of these stratas are
intensified on the basis of the type of the agricultural enterprise with which they are connected. This economic action to a large extent determines the social position and the privileges of each class, and the entire agricultural population is subjected to a complex process of stratification from which the rural masses cannot escape and with which they have to get along.\textsuperscript{59}

The term Agricultural Labour, on a composite basis of classification, would, therefore, include members from all the above classes who are engaged in the actual cultivation of land. It gives rather a high pyramid of social stratification. At the top are the cultivating-owners of the capitalistic type who perform only skilled work, while the lowest stratum comprises of landless workers who perform unskilled work and receive poor remuneration. Thus the term agricultural labour represents the labour of the following classes:

(a) Cultivating Owners,

(b) Tenant Cultivators,

(c) Landless Farm Labourers,

(d) Field Workers (Unspecified).

This classification will exclude rent-receivers (non-cultivating owners and tenants), artisans, and general labourers employed in public

\textsuperscript{59} K.C. Vasanth Kumar v. State of Karnataka, 1985 AIR 1495 (CJ) [Chandrachud, Y.V.].
works and urban industries, but residing in villages. The exclusion of artisan labour deserves special mention because most of their work is connected with agriculture. The cultivating owners have their own land, tools, and cattle and with the help of family hands they cultivate their land. Hired help is also employed. If the holding is too big, it is sublet to landless labourers on produce rents, in which case the cultivating owner becomes a rent-receiver. Cultivating owners are the cultivators of 'Sir' land and 'Khudkash'60.

Tenant cultivators are either statutory, occupancy, or non-occupancy, and cultivate rented holdings of land belonging to hereditary landlords. They work with their own cattle and tools, and depend on their family hands with casual hired help. This class forms the bulk of the actual tillers of the soil, but excludes those occupancy tenants whose entire holding is sublet in small plots to under-tenants, and who depend on the differential rent obtained by such sub-letting.

The third class of agricultural labourers includes those workers who have no land (owned or rented) and no capital, but hire out their labour to well-to-do tenants and landlords. They return themselves as agriculturists whose principal, and in many cases hereditary occupation, is cultivation of

non-cultivating owners land.\textsuperscript{61} Their labour is skilful and is always in demand for such operations as ploughing, sowing, irrigating, marketing, \textit{etc.} All family hands contribute their share to the family budget, and therefore, most of the female and child labour, for various agricultural operations, is drawn from this class. Under casual employment they receive cash wages, but in permanent employments their daily wages are supplemented by a customary grain allowance at harvests. Often they have to move from farm to farm in different cropping seasons but they are seldom forced to leave the village for lack of employment. The last group represents the miscellaneous labour which requires no special skill or experience beyond what a coolie may be expected to acquire in the ordinary course of his career. This class is always mobile because its demand or supply is closely regulated by agricultural and industrial seasons. In Bihar and the eastern districts of the U.P., for \textit{e.g.}, unspecified labourers migrate in vast numbers from the fields to the mines, and thence to public works and industrial centres in different parts of the year. They have no land and no capital, and their labour is not specialized. Therefore, during agricultural seasons, they lie at the mercy of well-to-do cultivators, and in the off seasons depend on urban factories for livelihood. Their labour is always undefined and their wages unregulated, and though for tasks of unskilled nature, they are of great importance in agriculture, they are not absolutely necessary and indispensably precious.

There is no hard and fast rule by which the task of each class is
differentiated in actual practice, but to a certain extent caste regulates the
nature of work which falls to the lot of each group. Owner cultivators, in
general, cultivate their hereditary lands and belong to higher castes.\textsuperscript{62} Cultivating tenants form the rural middle classes, and belong to castes whose
traditional occupation has been agriculture. Farm hands are drawn mainly
from poorer classes of the village.\textsuperscript{63} But on the lowest rung of the economic
ladder stand the unspecified labourers drawn from all castes and classes to
perform ordinary \textit{coolie} work on starvation wages.

Thus, the population engaged in agriculture is not homogeneous, but
is differentiated into various strata as described above \textit{i.e.}, those of owner-
labourers, tenant-workers and landless \textit{proletariat}. The basic significance of
rural labour problems can be understood only when there is a clear idea of
the fundamental conditions distinguishing one class from the other.

During nights even farm labour work \textit{e.g.}, in villages to fight against
paucity in electric power three phase electricity is supplied only during
nights so that they should not use water bodies for irrigation purposes
specially in summer as the water reserved is by and large, for drinking and

household purposes. Farmers, often employ workers to irrigate the crops in nights by paying additional wages which often is below statutory minimum.

Agricultural workers work for some kind of 'wage', which may be in cash or kind, or a combination of both. They work within an employment relationship, be it with a farmer or farming or plantation company or labour contractor or sub-contractor\(^\text{64}\). The demand for agricultural labour fluctuates with the seasons and this is reflected in the nature of the workforce. Hours of work tend to be extremely long during planting and harvesting, with shorter hours at off-peak times. During rush periods, field work can go from dawn to dusk, with transport time to and fro the fields in addition. The intensity of the work offers little chance for rest breaks; the length of the working day offers insufficient time for recuperation. Payment systems can exacerbate this situation. As minimum wages tend to be low or non-existent for agricultural workers in general and many casual, temporary or seasonal workers are paid at least in part on a piece work basis – \textit{i.e.}, per kilo of crop picked, row weeded, or hectare sprayed, there is a strong financial incentive for them to extend their working time to the maximum so as to enhance their earnings.\(^\text{65}\)


Much agricultural work is by its nature physically demanding, involving long periods of standing, stooping, bending, and carrying out repetitive movements in awkward body positions. The risk of accidents is increased by fatigue, poorly designed tools, difficult terrain, and exposure to the elements and poor general health. Even when technological change has brought about a reduction in the physical drudgery of agricultural work, it has introduced new risks, notably associated with the use of sophisticated machinery and the intensive use of chemicals often without appropriate safety measures, information and training. Unsurprisingly, the level of fatal and serious accidents and illness is high. Yet, agricultural workers are among the least well protected in terms of access to health care, workers’ compensation, long term disability insurance and survivors’ benefits.

Further Classification of Agricultural Labour on the basis of wages they receive is worked out into following groups:

*Full-time (permanent) workers*

Full-time, permanent agricultural workers receive more job security, relatively higher wages, better housing, health and work benefits than do

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66. Research in India suggests that agricultural workers using powered machinery are most at risk from fatal accidents, but that injuries are actually more common in less mechanized villages, probably owing to lower adherence to safety standards. Basic hazards like sharp tools and snake bites also cause debilitating wounds and fatalities. [http://www.ifpri.org/sites/default/files/publications/focus13_08.pdf](http://www.ifpri.org/sites/default/files/publications/focus13_08.pdf); [accessed on 14-05-2011]

other waged agricultural workers. However, this does not mean that such workers are well-paid, relatively to the average wage levels in a given country. Wages in rural areas, both in cash and in real terms, are generally lower than in cities, and the hours of work are longer. Many full-time workers in agriculture live on or below the poverty line. Permanent contracts are the least common form of contract and their share in total agricultural employment has been declining in most countries. There is a trend away from full-time employment to more casual and seasonal employment, often referred to as the "casualization" or "flexibilization" of employment, with little or no social protection.

Casual, temporary and seasonal workers

The majority of waged agricultural workers in most developing countries and in some developed countries are employed on a seasonal and often a casual or temporary basis. Casual workers refer to those employed and paid at the end of each day worked or on a task basis. Temporary work refers to those employed for a specific but limited period of time. Most seasonal, casual or temporary workers do not receive any form of social security or unemployment benefit, holidays with pay, or sickness or maternity leave. Indeed, many full-time waged agricultural earners lack these benefits. An increasing number of women workers are employed as casual or

temporary workers. Furthermore, jobs are often classed as casual or temporary even if there is in reality continuous employment. The practice of rotating individual workers so as to deny them the benefit of permanent employment status is also quite prevalent.\textsuperscript{69} In the cut flower industry, for example, data provided by the Ugandan National Union of Plantation and Agricultural Workers\textsuperscript{70} affirms that the majority of casual workers are women. Over 70\% of this workforce is casually employed without job security and other benefits such as annual leave. The women workers are mostly employed in harvesting and in the grading sections. A fulltime worker is paid a total package of 70,000 Uganda shillings ($35 US) per month while a casual worker earns 1,500 Uganda shillings per day. The trend towards casual and temporary labour is encouraged by, amongst other factors, unpredictable weather conditions, unstable market demand for produce, and labour laws which require that certain benefits, such as notice pay, leave allowances, and medical attention, be provided to seasonal and permanent employees.

To counter this development towards casual and temporary labour, unions in the plantation sector in many countries such as Kenya, have worked to include provisions in collective bargaining agreements limiting


the length of time during which employees may be engaged on a seasonal, casual or temporary basis.  

*Migrant workers*

Migrant workers are found in all types of employment relationships as casual, temporary, seasonal or even full-time workers. They may be migrant workers from a different part of a country, or foreign workers. Wherever they come from, migrant workers are always heavily disadvantaged in terms of pay, social protection, housing and medical care.

In India agricultural labourers are migrating to different parts of the country for earning their livelihood and in this way there is in-equilibrium between labour demand and supply. Especially in Punjab, the influx of migrant labour started with the green revolution and picked up subsequently. Due to monoculture in the cropping pattern, the State has become largely dependent on migrant labourers for various agricultural operations. The influx of seasonal as well as permanent labour from outside has led to various socio-economic problems in Punjab. Labour class belonging to the States of Bihar, Uttar Pradesh, Jharkhand, Madhya Pradesh and Nepal

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constitute the major portion. Better income and employment opportunities at
the destination place are the major factors responsible for migration\textsuperscript{72}.

Globalization and structural adjustment have transformed agriculture
in many countries into an export-oriented sector heavily dependent on
migrant labour. According to a trade union consultation on Irregular
Migration and Human Trafficking in Europe, 2003, it is essentially the
power of the large supermarket chains that forces farmers to produce at very
low cost. Farmers respond to the pressure by decreasing their labour costs,
thus passing the burden on to the workers. Low pay and status for hard work
is not attractive for the national workforce. Therefore farmers rely
increasingly on migrant labour. In some areas, as in the Almeria region of
Spain, more than 90\% of workers in agriculture are immigrants.\textsuperscript{73}

Labour migration is one of the major consequences of growing work
flexibility, casual employment, low pay, bad working conditions and
poverty. This labour mobility is very significant throughout the world.\textsuperscript{74}

\begin{footnotesize}
\begin{enumerate}
\item Kaur, Baljinder, “Causes and Impact of Labour Migration: A Case Study of Punjab Agriculture”,
\item Report of the trade union consultation meeting on ‘Irregular Migration and Human Trafficking in
\item Stalker, P., \textit{Workers without Frontiers: The Impact of Globalisation on International Migration} 42,
\end{enumerate}
\end{footnotesize}
The migrant labour force often consists in reality of whole families, although formally only the head of the family is employed. In many countries, children of migrant and seasonal workers work next to their parents but do not figure on the payroll.\textsuperscript{75} As much work is paid on a "piece-rate" basis, migrant and seasonal workers need their children to work in order to achieve a living wage\textsuperscript{76}.

\textit{Indigenous rural workers}

Indigenous agricultural workers form part of the agricultural workforce in many countries. Having been forced off their own lands, they often end up as agricultural workers, usually under poor employment and working conditions. In many countries in Latin America, for example, the living and working conditions of indigenous workers and their families are below the average for workers belonging to what is referred to as the “predominant society”, including non-indigenous rural workers. These differences are evident in access to education, social security, levels of trade union membership, salaries and occupational health and safety\textsuperscript{77}.

\textsuperscript{75} Mazhar Arif, \textit{Alternative Labour Policy for Rural Workers} 7, Lahore: South Asian Partnership-Pakistan, 2008.


1.5. Agricultural Labour and its characteristic features:

In the following paragraphs the main characteristics of agricultural labour are discussed emphasizing on economic and social relationships.

Before any attempt is made to evolve a rational policy to improve the living conditions of agricultural labourers who belong to the lowest rung of social and economic ladder, it is essential to know the distinguishing features that characterize agricultural labourers in India. The main features, characterizing Indian agricultural labour are as follows:

1. Scattered existence of agricultural labour:

Agricultural labour in India is being widely scattered over 5.6 lakh villages, of which half have population of less than 500 each. And therefore, any question of building an effective organization, like that of industrial workers, poses insurmountable difficulties. Thus as the vast number of agricultural labour lies scattered all over India, there has been no successful attempt for long, to build their effective organization even at the State level not to speak of the national level.

2. Agricultural labour is unskilled and lack training:

Agricultural labourers, especially in smaller villages away from towns and cities, are generally unskilled workers carrying on agricultural operation in the centuries old traditional ways. Most of them, especially those in small isolated villages with around 500 population, may not have even heard of
modernization of agriculture. Majority of them are generally conservative, tradition bound, totalistic and resigned to the insufferable lot to which according to them fate has condemned. There is hardly any motivation for change or improvement. Since, there is direct supervision by the landlord, there is hardly any escape from hard work and there is no alternative employment. The agricultural labourers have to do all types of work-farm and domestic at the bidding of the landlord.

3. Agricultural labour force is often unorganised:
Agricultural labourers are not organized like industrial labourers. They are illiterate and ignorant. They live in scattered villages. Hence they could not organize in unions. In urban areas workers could generally organize themselves in unions and it is convenient for political parties to take interest in trade union activities. This is almost difficult in case of farm labour. Accordingly, it is difficult for them to bargain with the land owners and secure good wages.

4. Low social status common in agricultural labour:
Most agricultural workers belong to the depressed classes, which have been neglected for causes for the growth of Agricultural Labourers. There are a number of factors responsible for the continuous and enormous increase in the number of agricultural labourers in India. The more important among them are:

- Increase in population
After considering the various attempts made to define the term agricultural labour and in the light of different types along with their characters it is of course a tough task to coin an unambiguous definition of the term agricultural labour.

Considerable discussion has been done on agricultural labour but till now no concrete definition and law meant for them has been provided at any instance by the Parliament. So an attempt is required on war path in this direction at the earliest. It is pertinent to refer some of the labour legislations where agricultural labour is also covered but unfortunately the term has not found its way into the definitional Chapter of any of these legislations.

78. Supra note 11.
The researcher is quite influenced by the definition of agricultural labour provided under the *Federal Insurance Contributions Act* of United States. In the light of this definition the researcher proposes that the Indian definition ought to include following ingredients.

The term "agricultural labor" shall include all services performed:

1. on a farm\(^79\) in the employment of any person in connection with cultivating the soil, or in connection with raising or harvesting any agricultural, aqua-cultural or horticultural commodities, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, fish, poultry, and animals;

2. in the employment of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of bush and other debris left by a hurricane if the major part of such service is performed on a farm;

3. in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways not owned or operated for profit and used exclusively for supplying and storing water, for farming purposes at

\(^79\) The term "farm" includes stock, dairy, fish, poultry, fruit, animal and truck farms, plantations, ranches, nurseries, hatcheries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural, aqua-cultural or horticultural commodities, and orchards.
least ninety per cent of which was ultimately delivered for agricultural purposes during the preceding calendar year;

4. in handling, planting, drying, packaging, eviscerating, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market in its unmanufactured state any agricultural, aqua-cultural or horticultural commodities, but only if such operator in both the current and preceding calendar year produced more than one-half of the commodities with respect to which such service is performed;

5. in the employment of a group of farm operators (or a cooperative organization of such operators) in the performance of service, but only if such operators in both the current and preceding calendar year produced more than one-half of the commodities with respect to which such service is performed. The term "in the employment of a group of farm operators" shall include any group of farmers, organized or unorganized, who as a group produced more than one-half of the crop for which the services are being performed.

The provisions in (4) and (5) above shall not be deemed to be applicable with respect to service performed in connection with commercial canning, freezing, or dehydrating, or in connection with any agricultural, aqua-
cultural or horticultural commodity after its delivery to a terminal market\textsuperscript{80} for distribution and/or consumption\textsuperscript{81}.

1.6 Some frequently used terminology in law governing agricultural labour:

1.6.1 **Agriculture** is derived from Latin words *Ager* and *Cultura*. *Ager* means land or field and *Cultura* means cultivation. Therefore the term agriculture means cultivation of land i.e., the science and art of producing crops and livestock for economic purposes. It is also referred as the science of producing crops and livestock from the natural resources of the earth. The primary aim of agriculture is to cause the land to produce more abundantly, and at the same time, to protect it from deterioration and misuse. It is synonymous with farming—the production of food, fodder and other industrial materials\textsuperscript{82}.

1.6.2 **Agricultural dispute** means any dispute or difference between landowners or between agricultural workers or between landowners and agricultural workers which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person.

\textsuperscript{80} The term "terminal market" means a place of business to which products are shipped in a sorted, graded, packaged condition, ready for immediate sale.
\textsuperscript{81} *Worker's Compensation and Related Laws - Industrial Commission*, Title 72, U.S. State Legislature of Idaho.
Explanation — Where any landowners discharges, dismisses, retrenches or otherwise terminates the services of, or denies employment to, an individual agricultural worker, any dispute or difference between that agricultural worker and his employer connected with, or arising out of, such discharge, dismissal, retrenchment, termination or denial of employment shall be deemed to be an agricultural dispute notwithstanding that no other agricultural worker nor any union of agricultural workers is a party to the dispute;

1.6. 3 “Agricultural land” means any land, used for cultivation or used for—

(i) farming, including the cultivation and tillage of soil etc;

(ii) dairy farming;

(iii) production, cultivation and harvesting of any horticultural commodity;

(iv) raising of livestock, bee-keeping or poultry;

(v) any practice performed on a farm as incidental to or in conjunction with the farm operations (including any forestry or timbering operations and the preparation for market and delivery to storage or to market or to carriage for transportation of farm products) or

(vi) reserved or used for growing fodder or thatching grass or for grazing cattle but does not include plantation as defined in the Plantations Labour Act, 1951.
1.6.4 **Agricultural Tribunal** means in relation to the Agricultural Tribunal constituted for a specific area in consideration.

1.6.5 **Employer** when used in relation to an agricultural operations, including farming, dairy farming, production, cultivation, growing and harvesting of any horticultural commodity, raising of livestock, bee keeping or poultry and any practice performed on a farm as incidental to or in conjunction with, farm operations (including any forestry or timbering operations and the preparation for market and delivery to storage or to market or to carriage for transportation of farm products), means the person who has the ultimate control over the affairs of the agricultural land and where the affairs of any agricultural land are entrusted to any other person. (whether called managing agent, manager, superintendent or by another name) such other person shall be deemed to be employer in relation to that agricultural land.

1.6.6 **Agricultural family** means husband, wife and their unmarried minor children or such of them as exist.

1.6.7 **Landowner** means, -

(i) in relation to a land personally cultivated, the owner of such land;
(ii) in relation to a land held by cultivating tenants, such cultivating tenant;
(iii) in any other case, the person in actual possession of land, and includes his heirs, assignees and legal representatives.

For the purposes of this clause, -
1.6.8 (i) **Cultivating tenant** means a person who cultivates by his own labour or by that of any other members of his family or by hired labour under his supervision and control, any land belonging to another under a tenancy agreement, express or implied, but does not include a mere intermediary. Thus, cultivating tenant means a tenant who is in actual possession of, and is entitled to cultivate the land comprise in his holding.

(ii) **personally cultivate** means cultivate either solely by one’s own labour or with the help of the members of his family or hired labourers or both, or personally direct or supervise cultivation by such members or hired labourers or both, provided that such members or hired labourers have not agreed to pay or to take any fixed proportion\(^\text{83}\).

1.6.9 **Small Farmer** means a person whose total holding whether as owner, tenant or mortgagee with possession, or partly in one capacity and partly in another, does not exceed two and a half acres of wet lands or five acres of dry lands. In computing the extent of land held by a person who holds wet and dry lands, two acres of dry lands shall be taken to be equivalent to one acre of wet land\(^\text{84}\).

1.6.10 **Landlord** means the owner of a holding or part thereof who is entitled to evict the cultivating tenant from such holding or part, and includes

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\(^{83}\) Shrimant Appasaheb Tuljaram Desai and Others v. Bhalchandra Vithalrao Thube, 1961 AIR 589 [per, Syed Jaffer J.]

\(^{84}\) Maheshwari Fish Seed Farm v. Tamil Nadu Electricity Board, 2004 Supp (1) SCR 285.
the heirs, assignees, legal representatives of such owner or person deriving rights through him”\textsuperscript{85}.

Keeping in mind the importance of history, in the present Chapter a brief survey has been conducted of Indian agricultural labour identifying the upheavals. With this historical foundation the concept of agricultural labour has been discussed thread bear through which it is established what an herculean task it is to draft to an all-inclusive definition of agricultural labour. Further, what are the different possible classifications of agricultural labour along with their basic characteristic features are dealt with exhaustively. This apart the other terminology which is needed to be used frequently while dealing with various aspects pertaining to agricultural labour and law has also been incorporated in a nutshell in the last part of this Chapter. With this basic information it is pertinent to find out what steps have been taken internationally with regard to strengthening the position of agricultural labour through the law. Therefore, the Researcher’s concentration in the next Chapter would be on the international scenario in this regard.

\textsuperscript{85} \textit{Chittoor Chegaiah v. Pedda Jeeyangar Mutt}, 2010(2) Law Herald (SC) 94.